

# *The Indiana Department of Revenue*



## *2004 Annual Report*

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## LETTER FROM THE COMMISSIONER

October 1, 2004

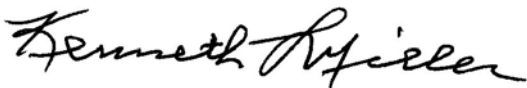
The Honorable Joseph E. Kernan  
Governor, State of Indiana  
State House, Room 206  
Indianapolis, Indiana 46204-2797

Dear Governor Kernan:

It is my pleasure to present to you a copy of the Indiana Department of Revenue's fourteenth annual report. The report provides you and the Indiana Legislative Council with a summary of the Department's accomplishments and also meets all legal requirements set forth by Indiana Code 6-8.1-1-14.

Also, as Commissioner, I attest that the Department is in compliance with Indiana Code 6-8.1-3-2.5, which states that the Department may not include the amount of revenue collected or tax liability assessed in the evaluation of an employee; nor may it impose or suggest production quotas or goals for employees based on the number of cases closed.

Sincerely,

A handwritten signature in black ink, reading "Kenneth L. Miller". The signature is fluid and cursive, with the first name "Kenneth" being more prominent and the last name "Miller" following in a similar style.

Kenneth L. Miller  
Commissioner

# ABOUT THE INDIANA DEPARTMENT OF REVENUE

## Mission Statement

The Indiana Department of Revenue will administer the tax laws of the State of Indiana in an equitable and courteous manner to promote the highest degree of public trust and voluntary compliance.

## Motto

“Committed to public trust and service.”

## Department Divisions

### Administration

Sections: Commissioner, Deputy Commissioner, General Counsel to the Commissioner and Director of Operations.

The four main components of this division assist in overseeing the entire agency.

### Audit

Sections: Audit Billing/Inquiries, Audit Review, Audit Selection, Operations, Special Tax, Field Auditing and Taxpayer Services in District Offices.

This division promotes voluntary compliance throughout the state and the country in all Indiana tax areas through quality examinations. It is also responsible for the Department's 11 District Offices, which are located throughout Indiana.

### Collections

Sections: Titles/Licensing, Agent/Taxpayer Contact, Telephone Pursuit, Correspondence and Research/Payment Processing

This division provides centralized management in the collection of delinquent tax liabilities.

### Compliance

Sections: Individual and Withholding, Charity Gaming and Nonprofit, Sales, Fuel and Utility Refund, Aeronautics and Bankruptcy

Responsibilities: Aircraft, Bankruptcy, Charity Gaming, Consumer Use Tax, Corporate Dissolution Billings, Corporate Federal Audit Adjustments, Corporate Reinstatements, Discovery Projects, Doubtful Exemption User Billings, Fiduciary Tax, Fuel Tax Refunds, Individual Income, Letters of Good Standing, Motor Vehicle Sales Tax, Neighborhood Assistance Credits, Nonprofit, Notice of Administration, Prepaid Sales Tax, Refund Specials, Responsible Officer Billings, Sales Tax Refunds, Tax Clearances, Utility Sales Tax Exemption Applications and Voluntary Compliance Program.

This division researches, develops, and implements various projects that identify non-filing, noncomplying taxpayers for the following taxes: corporate, individual, sales/use, food and beverage, county innkeepers, aircraft, fuel and withholding. All information for registration of aircraft and nonprofit organizations is conducted by this division, as well as the approval and issuance of all charity gaming licenses (e.g., raffles, bingo, door prizes, pull-tabs and punchboards). Applications for exemption from sales tax related to various types of utilities consumed by taxpayers are reviewed for determination of exempt status and rate of exemption allowed. Records are researched for bankrupt individuals and businesses to identify tax liabilities and unfiled tax returns for the purpose of submitting “proof of claims” to the various bankruptcy courts. Outreach through charity gaming educational seminars and projects is conducted in an effort to promote voluntary compliance by Indiana taxpayers.



### Controller

Sections: Budget Analyst, Business Administration, Accounting/Counties, Cigarette Tax and Other Tobacco Products, Mail Services and Cashiers.

This division handles budgeting and purchasing for the Department under the guidance of the Controller. Other responsibilities include depositing of tax revenues, preparing appropriate reports and conducting all related banking functions. The Controller's Office administers those taxes collected by the state and returned to the county of origin. This division also handles the inventory and sale of cigarette tax stamps.

### Criminal Investigation

Sections: Case and Data Management, Charity Gaming Enforcement, Controlled Substance Excise Tax, Private Employment Agency Licensing, Internal Affairs, Motor Fuel Fraud, Motor Vehicle Excise Tax and Fraud Investigations/Audit.

The division's primary mission is to detect fraud and prosecute tax evaders. It is responsible for conducting investigations into alleged violations of Indiana tax laws and determining civil liabilities or presenting evidence for criminal prosecution in an effort to increase voluntary compliance.

The majority of these investigations involve the collection and failure to remit trust taxes. The division also monitors charity gaming operations throughout the state and works in conjunction with the Indiana State Police to monitor the unlawful use of dyed fuel on the highways. The division also cooperates with prosecuting attorneys throughout the state in assessing the controlled substance excise tax on those illegally possessing certain drugs and monitors and enforces the collection of the Motor Vehicle Excise Tax from Hoosiers who plate their vehicles outside Indiana. This money is returned to the county where the taxpayer legally resides. The Department conducts background investigations on all employment prospects and investigates alleged employee wrongdoing. The division is also responsible for the investigation and licensing of Private Employment Agencies.

### Information Technology

Sections: Administrative Services, Operations, Systems and Programming and Technical Support.

This division supports the Department's efforts and goals by creating and administering computerized tax processing systems for the other divisions of the Department. This division operates with a goal of providing tax processing systems that are increasingly easier to use; constantly improving efficiency and service to the taxpayer; and maintaining secure and confidential records.

### Legal

Sections: Appeals, Litigation, Inheritance Tax and Protest Review.

This division includes the Department's legal staff, which oversees the appeals process from an original tax protest to the Indiana Tax Court. This division also contains the Inheritance Tax Section, which collects tax on all taxable transfers of property resulting from the death of an Indiana resident, or a nonresident decedent, with real or tangible personal property located in Indiana.

### Motor Carrier Services

Sections: Customer Service Center, Motor Carrier Road and Fuel Use Taxes, International Vehicle Registration Plan, Safety & Insurance Registrations, Commercial Driver's Licensing (CDL), Oversized & Overweight Vehicle Permitting and Accounting and Fund Distribution.

This division provides all of the above tax and registration services to the motor carrier community. The division also collects and distributes revenue to other states and Canadian provinces in accordance with international agreements. Equally important is the effort to work in partnership with the Federal Motor Carrier Safety Administration and other stakeholders to promote and increase safe highway operations, resulting in fewer commercial carrier accidents and fatalities.

The Motor Carrier Services Division operates a "One-Stop Shop" for the trucking community, which is located at the AmeriPLEX Office Park on the southwest side of Indianapolis.

### Network Security and Administration

Sections: Administration, Intra/Internet Development, Network/Server Development, Software Support, Local Area Network (LAN)/Client Support and Application Development.

This division supports the Department's mission by providing a reliable and secure LAN/WAN (Local Area Network/Wide Area Network) environment. The division accomplishes this goal by providing client-server application development, network and LAN administration, software and desktop support, network security and computer-based training and webmaster services.

### Personnel

Sections: Employment Processing and Compensation, Payroll and Benefits, Training, Labor Relations and Special Projects.

The Personnel Division addresses all issues relating to employment for the Department's 944 employees. These include recruitment, the application process, employment and classification, compensation, testing, training, payroll, performance appraisals, new employee orientation, intermittent applications, interviewing, internal and job bank postings, and summer internship program.

Other employee matters include: employee relations and support, employee benefits, employment verification, leaves of absence, non-merit rules, standardized policies, performance appraisal, progressive discipline, resignations, salary calculations, seniority list, parking, unemployment and workers compensation claims, wellness, health and safety issues and labor relations.

Also covered are state and federal regulations, such as Affirmative Action/Equal Employment Opportunity (AA/EEO), Americans with Disabilities Act (ADA), Family and Medical Leave, and sexual harassment, in addition to organizational development, systems training, staff development and training records.

### Public Affairs and Advocacy Office

Public Affairs Section: Form Development and Revisions, Outreach Education, Practitioner Services, Tax Preparation Software approval, Indiana TaxFax, Web content for the Department's Web site and media relations and publications.

This section administers tax form revision and editing, internal and external education, provides instruction to over 1,800 volunteers statewide (who help over 75,000 elderly, low income and special needs Hoosiers with free tax return preparation), approves software companies and their Indiana tax preparation software and the Indiana TaxFax form distribution system. It also coordinates content for the Department's Web site, handles media inquiries and publicity and edits both the Department's annual and charity gaming reports and internal and external publications for tax professionals, nonprofit organizations and employees.

The Indiana Tax Advocacy Office: hardships, offers-in-compromise, complaints and problem resolution.

This section provides an avenue for the successful resolution of taxpayer issues that have not been resolved through normal channels. Hardships, offers-in-compromise and taxpayer complaints are also researched and resolved through the Advocacy program. The Advocate serves to facilitate resolution as a final resource for the taxpayer.

### Quality Assurance

This division oversees the development, testing and ongoing changes to the Department's Returns Processing System (RPS). It also monitors system output to ensure standards of quality and to assist in problem identification.

### Returns Processing Center (RPC)

Sections: A/R Payments, Batch and Edit, Unidentified Checks, Check Processing, Low Volume Data Entry, Electronic Funds Transfer, Forms Processing, Mail Open and Sort, Mail Out, Forms Order, Print Shop, Logistic Support, Data Capture, Corporate Income Tax, Individual Income Tax, System Services, Fuel Tax, Environmental Tax, Return Mail, Business Communication, LAN Support and Administration and Administrative Support.

The Returns Processing Center receives, processes and posts nearly all of the returns and payments received by the Department to taxpayer accounts in the Returns Processing System. In addition, this area works with several taxes for which the records are maintained on stand-alone PC systems that are maintained by the Department or other agencies for which the taxes are collected. This area works with several other agencies, such as Workforce Development, Environmental Management and Department of Natural Resources, to collect various taxes and fees for those agencies.

The Returns Processing Center assures that all returns are posted in an accurate and timely manner which then allows the rest of the Department to access the data they need to complete their job functions. The Returns Processing Center works with other divisions within the Department to see that retention records are established and adhered to, prints various tax forms and related information for the Department and, when time permits, for other state agencies.

The Forms Order Section provides assistance to accountants, taxpayers, libraries, Post Offices and anyone else who needs either a single tax return or a supply of tax forms. Taxpayer assistance to Corporate, Sales, Withholding, Fuel, Environmental, Cigarette and Alcoholic Beverage tax accounts are processed at this site. The RPC continues to search for new technology and new ways to use existing technology for faster and better ways to receive, process and post the tax returns received by Indiana Department of Revenue.

#### Tax Policy

Sections: Policy Research, Fiscal Analysis, Technical Tax Research and Legislative Affairs.

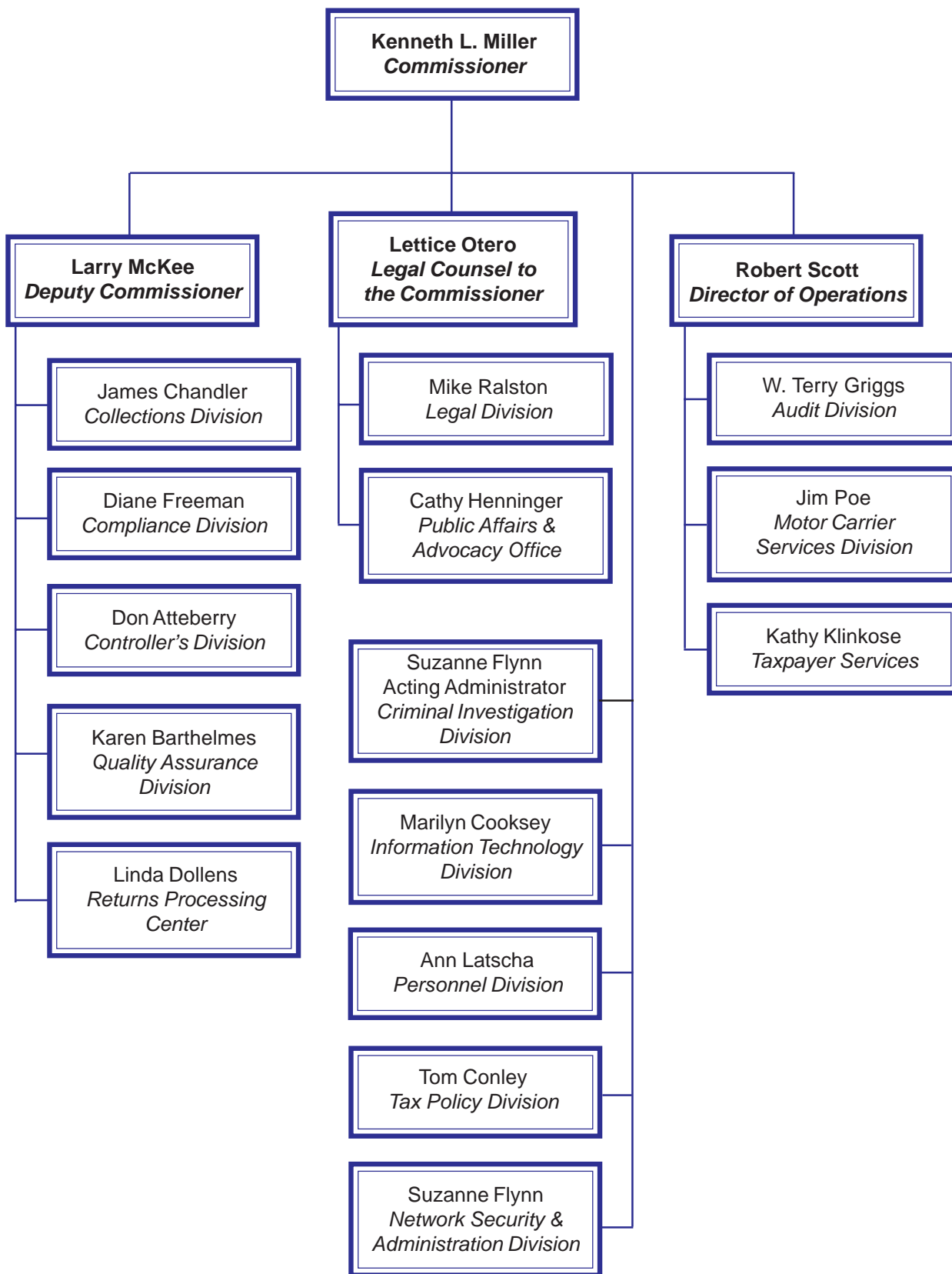
This division works primarily with legislative efforts, serving as a legislative liaison for the Indiana General Assembly. It issues rulings, policy directives and information bulletins and helps to determine the correct interpretation of the law. This division also provides tax statistics to both federal and state agencies as well as to other states.

#### Taxpayer Services

Sections: Telephone Section, Correspondence, Research and Support and Taxpayer Assistance.

This division provides walk-in and telephone assistance to Indiana taxpayers and handles e-mail and written correspondence. It combines many direct contact functions generally involving three major tax types: individual income, sales and withholding taxes.

## DEPARTMENTAL STRUCTURE



***The Indiana Department of Revenue had 944 employees (as of 6/30/04).***



## TAX HELP - TELEPHONE AND INTERNET ACCESS

### INDIANA DEPARTMENT OF REVENUE'S HOME PAGE:

[www.IN.gov/dor](http://www.IN.gov/dor)

Access to forms, information bulletins  
and directives, tax publications, e-mail,  
I-File (the PC-Filing Program), etc.

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### TAX FORMS ORDERING

(Available 24 hrs., 7 days a week)

<http://secure.IN.gov/apps/dor/fos>

(317) 615-2581

### AUTOMATED INFORMATION LINE

Check on the status of refunds;  
prerecorded tax topics; and tax liability  
balances.

(317) 233-4018

### INDIANA TAXFAX SYSTEM

Call from the telephone portion of  
your FAX machine to retrieve tax  
forms and information bulletins.

Available 24 hours a day.

(317) 233-2329

### COLLECTION/LIABILITY INQUIRIES

(317) 232-2165

### CORPORATE TAX INFORMATION

(317) 615-2662

### INDIVIDUAL INCOME TAX INFORMATION

(317) 232-2240

### MOTOR CARRIER SERVICES

(317) 615-7200

### SALES TAX INFORMATION

(317) 233-4015

### TELEPHONE DEVICE FOR THE DEAF (TDDY)

(317) 232-4952

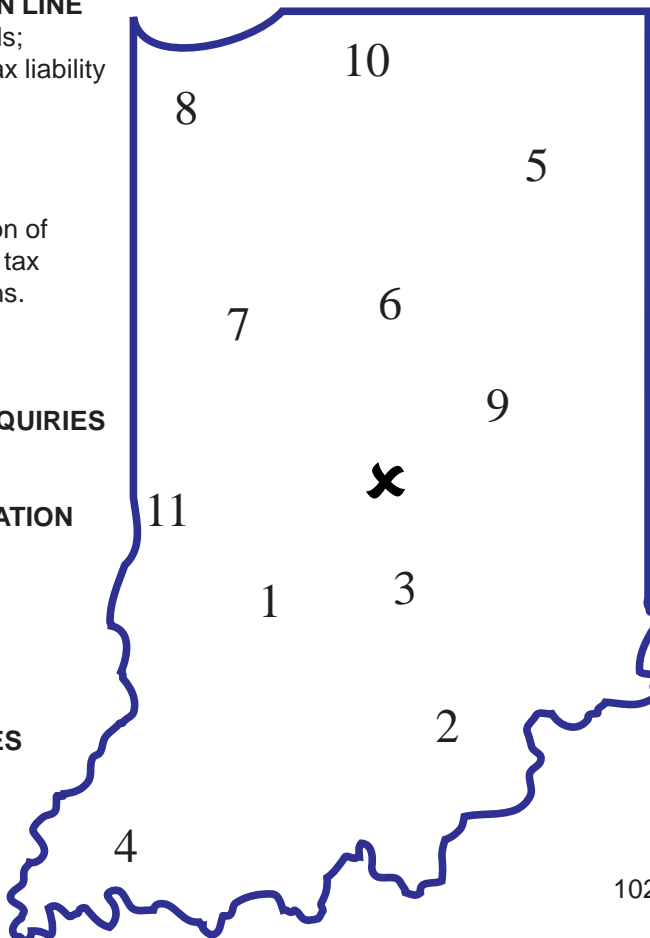
### WITHHOLDING TAX INFORMATION

(317) 233-4016



### INDIANAPOLIS (MAIN OFFICE)

Indiana Government Center  
North, Room N105  
100 N. Senate Avenue  
Indianapolis, IN 46204  
(317) 232-2240



## DISTRICT OFFICES

### 1) Bloomington

410 Landmark Avenue  
Bloomington, IN 47403  
(812) 339-1119

### 2) Clarksville

1446 Horn Street  
Clarksville, IN 47129  
(812) 282-7729

### Mailing Address

P.O. Box 3249  
Clarksville, IN 47131-3249

### 3) Columbus

3138 N. National Road  
Columbus, IN 47201  
(812) 376-3049

### 4) Evansville

500 S. Green River Rd.  
Goodwill Building  
Suite 202

Evansville, IN 47715  
(812) 479-9261

### 5) Fort Wayne

1415 Magnavox Way  
Suite 100  
Fort Wayne, IN 46804  
(260) 436-5663

### 6) Kokomo

117 E. Superior St.  
Kokomo, IN 46901  
(765) 457-0525

### 7) Lafayette

100 Executive Dr.  
Suite B  
Lafayette, IN 47905  
(765) 448-6626

### 8) Merrillville

8368 Louisiana Ave.  
Suite A  
Merrillville, IN 46410  
(219) 769-4267

### 9) Muncie

3640 N. Briarwood Lane  
Suite 5  
Muncie, IN 47304  
(765) 289-6196

### 10) South Bend

1025 Widener Lane, Suite B  
South Bend, IN 46614  
(574) 291-8270

### 11) Terre Haute

30 N. 8th St., 3rd Floor  
Terre Haute, IN 47807  
(812) 235-6046

## A YEAR IN REVIEW: FISCAL YEAR 2004 -- July 1, 2003 - June 30, 2004

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### ANOTHER AWARD-WINNING YEAR

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NECCC VITA Award from the National Electronic Commerce Coordinating Council as the Tax and Revenue Winner (2003)

NECCC VITA Award Overall Winner from the National Electronic Commerce Coordinating Council for Electronic Express Filing a proven return on investment in E-Government (2003)

"Excellence in Taxpayer Service and Administration Award" from the Indiana State Bar Association (2003)

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### INDIANA TRUCKERS GET FIRST "BRANDED" LICENSE PLATES

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Interstate fleet operators in Indiana were the first in the nation to be offered "branded" license plates with their company logos for their tractors and trailers. These specialty plates, offered through the Department's Motor Carrier Services Division, are expected to measurably deter the theft of semi-truck plates, which average \$1,800 each. In 2003, approximately 4,800 Indiana truck license plates were stolen. In addition to saving trucking companies tens-of-thousands of dollars in plate costs, the new plates will also save money in reduced down times when plates have to be replaced stolen -- affected trucks are often out of service for weeks. With the Department's new program, the State will be able to replace stolen truck plates within 72 hours. UPS was the first operator to embrace the State's program and is licensing the majority of its interstate vehicles in Indiana. Be sure to look for the new plates on UPS, Penske, Atlas, Ryder and North American semis as you cruise Indiana's highways.

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### NEWS NEWS NEWS NEWS NEWS NEWS NEWS NEWS NEWS NEWS NEWS

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Many electronic advances to help make state taxpaying easier, quicker, more accurate and more secure were rolled out by the Department in Fiscal Year 2004 (FY04). Also in FY04, a few new tax laws were passed by the Indiana General Assembly. Following are some of the year's highlights.

Many of the more popular tax forms and instructional booklets used by both individuals and corporations were translated into Spanish and posted to the Department's web site ([www.IN.gov/dor](http://www.IN.gov/dor)).

#### **October 2003 - Online IRP Services Rolled Out by Motor Carrier Services Division**

An exciting new Internet program allowed International Registration Plan (IRP) registrants to process vehicle renewals and transactions, obtain temporary permits, make transaction payments and print out valid cab cards and permits immediately -- just by going online. Online services are available 24 hours a day, seven days a week and reduce much of the IRP manual processing and mailing by Department personnel.

#### **October 2003 - Conducting Business in Indiana Got Easier**

The Department rolled out its new online BT-1 Business Tax Application in October 2003. Now new business owners can file online and will receive notice of the status of their applications from the Department within 48 hours. One BT-1 is needed to initiate Sales Tax, Withholding Tax, County Innkeepers Tax, Food and Beverage Tax, Motor Vehicle Rental Excise Tax, out-of-state Use Tax, Prepaid Gasoline Sales Tax and Private Employment Agency taxes. Also, due to the increasing number of Hispanic Hoosiers, a Spanish version of the BT-1 can be downloaded from the Department's Web site at [www.in.gov/dor](http://www.in.gov/dor).

#### **December 2003 - 2003 State Property Tax Deduction Delayed until 2004 for Some Homeowners**

Due to the restructuring of property taxes in Indiana, many counties did not mail their 2003 property tax statements to homeowners until 2004. Those homeowners affected had to wait until their 2004 tax returns filed in 2005 to claim their Homeowners Residential Property Tax Deduction for 2003. The maximum deduction per year is

\$2,500, and a maximum of \$5,000 will be allowed on the 2004 return if both years' property taxes were paid in 2004.

#### **January 2004 - Taxpayers Can Now Check the Status of Their State Tax Refunds Online**

For the first time, yet another cutting edge electronic advancement allowed Indiana taxpayers to check the status of their state individual income tax refunds online. The service is free and secure. They can find out if their refunds have been processed, if a check has been mailed or deposited to their banking account, or if there is some kind of problem with their state tax return.

**March 2004 - Taxpayers Can Now File Online for Extension of Time to Complete Their Tax Returns (IT-9).** Indiana taxpayers who require extra time to complete their income taxes may now pay estimated taxes online through the IN-ePay service and request additional time to complete tax forms.

#### **April 2004 - Changes in State Sales Tax Laws Affect all Indiana Taxpayers**

Notices were mailed out to over 164,000 Hoosier businesses updating them on new sales tax legislation. Ten different areas of state sales taxation were affected, including delivery charges, installation charges, complimentary rooms, utility services, and telecommunication services. Also affected were satellite TV/radio services, vehicles, bad debts, retail merchant registration and the Department's responsibility regarding industry classification codes.

#### **April 2004 - New Laws, Regulations and Forms were Topics of Charity Gaming Seminars**

Legislative changes, new forms, new rules and new regulations were all on the agenda for the Department's 2004 charity gaming training seminars, three of which occurred in Indianapolis, Plymouth and Clarksville before the end of the fiscal year. Officials from the Department, which administers charity gaming events in Indiana, covered issues that affect all nonprofit organizations, and specific information regarding charity gaming activities. Another three seminars are scheduled in Lafayette, Jasper and Muncie in Fall 2004.

#### **April 2004 - State Joins with County Clerks and Sheriffs to Serve Electronic Tax Warrants**

A joint effort of the Department with 23 county clerks, 14 sheriffs' departments and two collection agencies statewide saved Hoosier taxpayers over \$357,000 as of June 30, 2004. The project shares electronic information on the tax warrants of delinquent taxpayers – information that previously had to be communicated on paper via the U.S. Postal Service. Since the project's start-up and by June 30, 2004, some 579,000 tax warrant records were successfully transmitted electronically.

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## **TAXFAX**

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During Fiscal Year 2004, The TaxFax system handled orders for 5,997 callers needing forms and/or instruction booklets. This is in addition to e-mail and phone requests the Department receives. TaxFax orders continue to diminish as more taxpayers utilize the Department's web site, [www.IN.gov/dor](http://www.IN.gov/dor) for downloading and printing forms. Fiscal Year 2004 figures were 24% down from the 7,900 orders handled in Fiscal Year 2003.

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## **PERSONNEL**

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### **Payroll and Benefits**

The 2004 Open Enrollment was the second year working with State Personnel's Peoplesoft System. The Personnel Division assisted nearly all DOR employees in making their insurance selections. Due to the many changes in benefits, nearly every employee had to access their information on the system.

### **Labor Relations**

Meetings were held on a regular basis with representatives from AFSCME and UNITY regarding employee relations.

**Special Projects**

The State Employee Community Campaign - Department of Revenue employees generously contributed \$53,928.70 and received a Silver Per Capita Award and a Percent Increase Award raising 22.2% over last year's total of \$44,136.17. The Department had 50 Champion Level Givers.

Bring Your Youth to Work Job Shadowing - Children ranging in age from 9 to 15 participated in the program. Each Division was responsible for arranging Job Shadowing events and some divisions arranged field trips to the State House and Fire Station for the 79 participating children. Certificates were awarded at the end of the day to each participant.

Community Service Leave Program - Employees of the Department participated in the program which promotes employees to become involved in their community through volunteer efforts.

State Blood Drive - The Department, in conjunction with the Indiana Blood Center, annually sponsors four blood drives per year for state employees. This year, 556 State employees donated blood, some as many as four times per year, as compared with 343 State employees last year.

## 2004 LEGISLATIVE SUMMARY -- NEW AND AMENDED STATUTES

### LEGISLATION PASSED BY THE 2004 INDIANA GENERAL ASSEMBLY AFFECTING THE INDIANA DEPARTMENT OF REVENUE

(Legislation is listed by Code Citations affected on Pages 14-17)

#### LAWS ENACTED BY BILL NUMBER

**SB 263 – IC 6-8.1-3-17; IC 6-8.1-5-1; IC 6-8.1-9-1; IC 6-8.1-9-1.2 (effective July 1, 2004).** As a result of a recodification of Title 33, several sections of the code were changed to reflect the new code cite within Title 33.

**SB 278 – IC 6-2.5-10-5 (effective January 1, 2005).** Requires the Department to collect and maintain information for all retail merchants concerning the merchants' industry codes under the North American Industry Classification System Manual.

**HB 1001 Section 88; noncode (effective January 1, 2004).** Provides that a taxpayer who pays property taxes in 2004 that were payable in 2003 is entitled to the Income Tax Deduction for property taxes paid in 2004 equal to the lesser of the amount of taxes paid or \$2,500, minus the amount of any deduction claimed in 2003, if part of the tax bill was paid in 2003. Both years of the deduction may be claimed on the Individual Income Tax Return that is filed for the 2004 tax year.

**HB 1017 – IC 13-23-12-7 (effective July 1, 2004).** If an owner of an underground storage tank registered the tank before January 1, 2004, the \$2,000 penalty per year for unpaid fees may not be assessed against the owner for failure to pay the fee, if the fee was due before January 1, 2004.

**HB 1024 – IC 6-3.1-11-15 (effective July 1, 2004).** Reduces the square footage requirement from 300,000 to 250,000 for a vacant industrial building to qualify for the Industrial Recovery Tax Credit.

**HB 1029 – IC 31-16-12.5 (effective July 1, 2004).** Provides that a custodial parent may file for a setoff of child support from an Income Tax Refund payable to the obligor. The delinquent child support must total at least \$1,500, and the obligor must have intentionally violated the terms of the child support order.

The court is required to send an order to the Department to determine the obligor's eligibility for a state tax refund and whether the person has filed a Joint Income Tax Return. The Department is required to respond; and, if the response is positive, then the court shall set the matter for hearing. If the court issues a final order for a State Income Tax Refund Setoff, the order shall include the amount of child support that is owed, the arrearage that the Department shall withhold from the refund and the obligor's Social Security Number. The court is required to notify the Department before November 1 of the taxable year for which the refund is payable.

**HB 1042 – IC 4-32-6-20.5; IC 4-32-6-23.5; IC 4-32-9-16.5 (effective July 1, 2004).** Provides that for the purpose of distributing excess charity gaming receipts, the law expands the definition of "qualified recipient" to include hospitals, health facilities, psychiatric facilities, charitable activities of local law enforcement agencies and veterans' homes.

**HB 1055 – IC 6-3.1-19-3; IC 6-3.1-19-5; IC 36-7-13 (effective July 1, 2004).** Provides that a taxpayer is entitled to the CRED Credit on a qualified investment, even if no Incremental Sales or Income Taxes are deposited in the Incremental Tax Financing Fund.

Provides specific criteria to establish the date a business would be disqualified for the CRED Credit because of reduction or cessation of operations in the district. Provides that a taxpayer may appeal the Department's proposed order to deny the credit. Requires a hearing panel to be established composed of the Commissioner of the Department, State Budget Director and the Director of the Department of Commerce. The taxpayer is allowed to appeal the panel's decision to the Tax Court.

Requires the Department to calculate the base Sales and Income Tax amounts no later than 60 days after a district is modified.

Provides that if the State Budget Agency fails to take action on an ordinance designating a district within 120 days of the date the ordinance is submitted to the State Budget Agency, the designation of the ordinance is considered approved.

**HB 1114 – IC 6-2.5-4-6 (effective March 9, 2004).** Provides that if charges for telecommunication services not taxable are aggregated with charges that are taxable, the charges for the nontaxable services are exempt from the Sales Tax if the



provider can reasonably identify the charges not subject to the Sales Tax from the service provider's books and records kept in the regular course of business.

**HB 1154 – IC 6-4.1-1-3 (effective July 1, 2004).** Amends the inheritance tax to provide that a stepchild of a decedent shall be classified as a Class A transferee, instead of a Class C transferee.

**HB 1190 – IC 8-1-8.3 (effective March 16, 2004).** Provides that a public utility employee who holds a Commercial Driver's License and who works during a utility service interruption emergency is exempt from any regulation of the maximum hours of service that the employee may work under 49CFR395 (Code of Federal Regulations).

**HB 1254 – IC 9-24-6-11.5; IC 9-24-6.5 (effective July 1, 2004).** Provides that the Bureau of Motor Vehicles may adopt rules to comply with federal requirements concerning background checks for an individual seeking a Hazardous Materials Endorsement for a Commercial Driver's License. Provides provisions for the revocation and renewal of the endorsement.

**HB 1273 – IC 27-8-10-2.1; 27-8-10-2.4 (effective January 1, 2005).** Repeals the provision that allows an Income Tax Credit for assessments paid by insurance companies for the Indiana Comprehensive Health Insurance Association.

Provides that an insurance company may annually claim a credit equal to 10 percent of the total amount of unused credits that are available on January 1, 2005. The credit is not available until taxable years beginning after December 31, 2006.

**HB 1365 – IC 4-32; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-4.1; IC 6-8.1; IC 36-7-13; noncode (effective--see below).** Increases the cap on total prizes awarded for one pull tab, punchboard or tip board game from \$2,000 to \$5,000. Increases the prize for a single winning ticket from \$300 to \$599 **(effective July 1, 2004).**

Grants a credit against Indiana Use Tax for vehicles, watercraft and aircraft that are brought into Indiana, on which Sales Tax has already been paid in another state **(effective July 1, 2004).**

Clarifies that satellite TV and satellite radio services will be subject to Sales Tax in the same manner that cable TV is taxed **(effective March 1, 2004).**

Provides that vehicles, watercraft and aircraft that are sold in Indiana and are immediately taken to another state for registration are no longer exempt from Indiana Sales Tax **(effective July 1, 2004).**

Repeals the imposition of Sales Tax on complimentary hotel rooms and the reporting requirements of the retail merchant **(effective April 1, 2004).**

Requires certain out-of-state entities to register to collect Sales Tax if the entity has a related member located in Indiana **(effective July 1, 2004).**

Provides that "gross retail income" does not include charges for installation of tangible personal property if the charges are separately stated on the invoice **(effective March 18, 2004).**

Provides that "delivery charges" are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of the property, including but not limited to transportation, shipping, postage, handling, crating and packing **(effective March 18, 2004).**

Provides that the Sales Tax Bad Debt Deduction is assignable only if the retail merchant that paid the tax assigned the right to the deduction in writing **(effective July 1, 2004).**

Provides a Sales Tax Exemption for separately-metered utility services provided to a business that locates in an area containing a completely or partially inactive or closed military base. The exemption is for five years from the time that the business begins operations **(effective July 1, 2004).**

Revises the calculation of the Net Operating Loss (NOL) Deduction for both individuals and corporations **(effective January 1, 2004).**

Makes the Research Expense Credit permanent. The credit was set to expire on December 31, 2013 **(effective July 1, 2004).**

Provides for pass-through entities that are wholly or partially owned by an electric cooperative to claim a refundable EDGE Credit (Indiana's Economic Development for a Growing Economy Credit, **effective January 1, 2004).**

Extends the Hoosier Business Investment Tax Credit until December 31, 2007. It was originally scheduled to expire on December 31, 2005 **(effective January 1, 2004)**.

Provides a corporate Adjusted Gross Income tax rate of five percent for businesses that locate new operations in a completely or partially inactive or closed military base **(effective January 1, 2005)**.

Creates an Income Tax Credit for a qualified investment in a business located in a military base, a military base reuse area, an economic development area or a military base recovery site. The amount of the credit depends on the type of business, the number of jobs created and the amount of the investment. The maximum amount of the credit cannot exceed 30 percent of the investment **(effective January 1, 2005)**.

Provides that an adopted child is not considered a Class A transferee, unless the child was adopted before the child was totally emancipated **(effective July 1, 2004)**.

Repeals IC 9-18-9-4 that provided a fee for a converter dolly that is used with a semitrailer **(effective July 1, 2004)**.

Provides that a taxpayer who is entitled to the Community Revitalization Enhancement District (CRED) Tax Credit may claim the credit regardless of whether any incremental Income or Sales Taxes have been deposited in the Incremental Tax Financing Fund. Provides that a district must terminate no later than 15 years after Incremental Income or Sales Taxes are first allocated to the district. Provides that if the State Budget Agency fails to act on an ordinance that designates a CRED District within 120 days, the ordinance is considered adopted. Establishes a procedure and criteria for appealing a decision by the Department that the taxpayer is not eligible for the CRED Credit because the taxpayer's business relocated its operations into the district from another location in Indiana **(effective July 1, 2004)**.

Authorizes the Department to publish on the Internet a list of taxpayers who are subject to tax warrants of over \$1,000 issued at least 24 months before the date of the publication of the list. Requires the Department to send a notice to the taxpayer at least two weeks before the posting. The authority to publish the list expires on June 30, 2006 **(effective July 1, 2004)**.

Establishes an interim Study Committee on Corporate Taxation to study the utilization of Passive Investment Corporations by companies doing business in Indiana **(effective July 1, 2004)**.

## **CODE CITATIONS AFFECTED**

### **CHARITY GAMING (IC 4-32)**

**IC 4-32-6-20.5 (effective July 1, 2004)**. Defines "qualified recipient" for purposes of charity gaming proceeds to include hospitals, health facilities, psychiatric facilities, charitable activities of local law enforcement agencies and veterans' homes.

**IC 4-32-6-23.5 (effective July 1, 2004)**. Defines a "veterans' home" for purposes of charity gaming proceeds to include the Indiana Veterans' Home, the VFW (Veterans of Foreign Wars) National Home for Children, and the Indiana Soldiers' and Sailors' Children's Home.

**IC 4-32-9-16.5 (effective July 1, 2004)**. Provides that a veterans' home is not considered to be an affiliate, parent, or subsidiary organization of a qualified organization that is a bona fide veterans' organization.

**IC 4-32-9-33 (effective July 1, 2004)**. Increases the cap on total prizes awarded for one pull tab, punchboard or tip board game from \$2,000 to \$5,000. Increases the prize for a single winning ticket from \$300 to \$599.

### **SALES AND USE TAX (IC 6-2.5)**

**IC 6-2.5-1-5 (effective March 18, 2004)**. Provides that installation charges separately stated on an invoice or bill of sales will be exempt from the Sales Tax. Provides that "delivery charges" are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of the property, including but not limited to transportation, shipping, postage, handling, crating and packing.

**IC 6-2.5-3-1 (effective July 1, 2004)**. Amends the Use Tax to provide that a "retail merchant" includes any merchant located out-of-state that sells in Indiana and has a related entity located in Indiana.

**IC 6-2.5-3-5 (effective July 1, 2004)**. Provides that vehicles, watercraft and aircraft are granted a credit against the Use Tax if the Sales Tax has been paid in another state.

**IC 6-2.5-4-1 (effective March 18, 2004).** Provides that transfer of property is considered to have occurred after delivery of the property to the purchaser.

**IC 6-2.5-4-4.5 (effective April 1, 2004).** Repeals the imposition of the Sales Tax on the value of complimentary hotel rooms.

**IC 6-2.5-4-5 (effective July 1, 2004).** Provides a Sales Tax Exemption in an area containing a completely or partially inactive or closed military base. The exemption is for five years from the time that the business begins operations.

**IC 6-2.5-4-6 (effective March 9, 2004).** Provides that if charges for telecommunications services that are not taxable are aggregated with charges that are taxable, the charges for the nontaxable services are exempt from the Sales Tax if the provider can reasonably identify the charges not subject to the Sales Tax from the provider's books and records kept in the regular course of business.

**IC 6-2.5-4-11 (effective March 1, 2004, retroactive).** Clarifies that satellite TV and satellite radio services will be subject to the Sales Tax in the same manner that cable TV is taxed.

**IC 6-2.5-5-15 (effective July 1, 2004).** Provides that vehicles, watercraft and aircraft are subject to the Sales Tax, even if the property is going to be taken to another state to be registered. This is accomplished by the repeal of the current exemption.

**IC 6-2.5-6-9 (effective July 1, 2004).** Provides that the Sales Tax Bad Debt Deduction is assignable only if the retail merchant that paid the tax assigned the right to the deduction in writing.

**IC 6-2.5-6-15 (effective April 1, 2004).** Repeals the provision that requires innkeepers to report the number of complimentary rooms provided to customers and the amount of Sales Tax attributable to those complimentary rooms.

**IC 6-2.5-8-10 (effective July 1, 2004).** Requires entities that are located out-of-state and make sales in Indiana to register to collect the Sales Tax, if the entity has a related member located in Indiana.

**IC 6-2.5-10-5 (effective January 1, 2005).** Requires the Department to collect and maintain information for all retail merchants concerning the merchants' industry codes under the North American Industry Classification System Manual.

### **INCOME TAXES (IC 6-3)**

**IC 6-3-1-3.5 (effective January 1, 2004, retroactive).** Provides that individuals, corporations, nonresidents and insurance companies are required to add back any deduction taken under Section 172 of the Internal Revenue Code for a Net Operating Loss Deduction.

**IC 6-3-2-1.5 (effective January 1, 2005).** Provides a Corporate Adjusted Gross Income Tax Rate of five percent for businesses that locate new operations in a completely or partially inactive or closed military base.

**IC 6-3-2-2.5 (effective January 1, 2004, retroactive).** Provides revised calculations for individuals' Net Operating Losses. The Indiana loss is equal to the amount of federal Net Operating Loss for the taxable year adjusted for the modifications required under IC 6-3-1-3.5.

**IC 6-3-2-2.6 (effective January 1, 2004, retroactive).** Provides a revised calculation for a corporation or a nonresident to calculate a Net Operating Loss. The Indiana loss is equal to the amount of federal Net Operating Loss for the taxable year derived from sources within Indiana and adjusted for the modifications required under IC 6-3-1-3.5.

### **INCOME TAX CREDITS (IC 6-3.1)**

**IC 6-3.1-4-6 (effective July 1, 2004).** Makes the Research Expense Credit permanent. The credit was scheduled to expire on December 31, 2013.

**IC 6-3.1-11-15 (effective July 1, 2004).** Reduces the square footage requirement from 300,000 to 250,000 for a vacant industrial building to qualify for the Industrial Recovery Tax Credit.

**IC 6-3.1-11.6 (effective January 1, 2005).** Creates a Military Base Investment Cost Credit. The statute provides an Income Tax Credit for a qualified investment in a business located in a military base, a military base reuse area, an economic development area or a military base recovery site. The amount of the credit depends on the type of business, the number of jobs created and the amount of the investment. The maximum amount of the credit may not exceed 30 percent of the investment.

**IC 6-3.1-13-7 (effective January 1, 2004, retroactive).** Includes a trust, limited liability company and limited liability partnership in the definition of a “pass-through entity” for purposes of the EDGE Tax Credit.

**IC 6-3.1-13-21 (effective January 1, 2004, retroactive).** Provides that pass-through entities that are wholly or partially owned by electric cooperatives may claim a refundable EDGE Credit.

**IC 6-3.1-19-3 (effective July 1, 2004).** Provides that a taxpayer who is entitled to the Community Revitalization Enhancement District (CRED) Tax Credit may claim the credit regardless of whether any Incremental Income or Sales Taxes have been deposited in the Incremental Tax Financing Fund.

**IC 6-3.1-19-5 (effective July 1, 2004).** Establishes procedures and criteria for appealing a decision by the Department that a taxpayer is not eligible for the CRED Credit because the taxpayer’s business relocated its operations into the district from another location in Indiana. Provides that the Department must issue a proposed order to the taxpayer who is subject to disqualification for the credit. A hearing panel composed of one representative of the Department, the State Budget Agency and the Department of Commerce shall hear any appeal on the denial of the application for the credit. Provides that the taxpayer may appeal the decision of the hearing panel to the Tax Court.

**IC 6-3.1-26-26 (effective January 1, 2004, retroactive).** Extends the Hoosier Business Investment Tax Credit until December 31, 2007. It was originally scheduled to expire on December 31, 2005.

#### **INHERITANCE AND ESTATE TAX (IC 6-4.1)**

**IC 6-4.1-1-3 (effective July 1, 2004).** Provides that a stepchild of a decedent shall be classified as a Class A transferee, instead of a Class C transferee for purposes of Inheritance Tax Exemptions.

**IC 6-4.1-1-3 (effective July 1, 2004).** Provides that an adopted child is not considered to be a Class A transferee if the adoption occurred after the child was totally emancipated.

#### **TAX ADMINISTRATION (IC 6-8.1)**

**IC 6-8.1-3-16 (effective July 1, 2004).** Authorizes the Department to publish on the Internet a list of taxpayers who are subject to tax warrants issued at least 24 months before the date of the publication of the list. The amount of the warrant must be more than \$1,000. The list is to be updated and published on a monthly basis. Requires the Department notify the taxpayer at least two weeks before the posting. The authority to publish the list expires on June 30, 2006.

#### **OTHER PROVISIONS**

**IC 8-1-8.3 (effective March 16, 2004).** Provides that a public utility employee who holds a Commercial Driver's License and works during a utility service interruption emergency is exempt from any regulation of the maximum hours of service that the employee may work under 49 CFR 395.

**IC 9-18-9-4 (effective July 1, 2004).** Repeals the fee that was charged for a converter dolly that is used with a semitrailer.

**IC 9-24-6-11.5 (effective July 1, 2004).** Provides guidelines for the revocation of the Hazardous Materials Endorsement to a Commercial Driver's License.

**IC 9-24-6.5 (effective July 1, 2004).** Provides that the Bureau of Motor Vehicles may adopt rules to comply with federal requirements concerning background checks for an individual seeking a Hazardous Materials Endorsement for a Commercial Driver's License. Also provides for the renewal of the endorsement.

**IC 27-8-10-2.1 (effective January 1, 2005).** Repeals the provision that allows an Income Tax Credit for assessments paid by insurance companies to the Indiana Comprehensive Health Insurance Association.

**IC 27-8-10-2.4 (effective January 1, 2005).** Provides that an insurance company may annually claim a credit equal to 10 percent of the total amount of unused credits that are available on January 1, 2005. The credit carry-forward is not available until taxable years beginning after December 31, 2006.

**IC 31-16-12.5 (effective July 1, 2004).** Provides that a custodial parent may file for a Refund Offset of child support from an Income Tax Refund payable to the obligor. The delinquent child support must total at least \$1,500, and the obligor must have intentionally violated the terms of the child support order. The court is required to send an order to the Department to determine the obligor's eligibility for a state tax refund and whether the person has filed a Joint Income Tax Return. The Department is required to respond; and, if the response is positive, then the court shall set the matter for hearing. If the court issues a final order for a State Income Tax Refund Offset, the order shall include the amount of child support that is owed, the arrearage that the Department shall withhold from the refund and the obligor's Social Security Number. The court is required to notify the Department before November 1 of the taxable year for which the refund is payable.

**IC 36-7-13-10.5 (effective July 1, 2004).** Provides that if the State Budget Agency fails to take action on an ordinance designating a district within 120 days of the date the ordinance is submitted to the Budget Agency, the designation of the ordinance is considered approved.

**IC 36-7-13-14 (effective July 1, 2004).** Requires the Department to calculate the Sales Tax incremental amount and Income Tax incremental amount no later than 60 days after a district boundary is modified.

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This legislative summary may also be found on the Indiana Department of Revenue's web site at [www.in.gov/dor/reference/legal/summary.html](http://www.in.gov/dor/reference/legal/summary.html).

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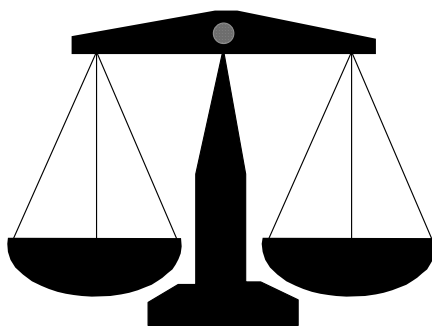
**TAXPAYER BILL OF RIGHTS**  
**Public Law 332-1989**  
**(Special Session)**

**Indiana Taxpayer Rights and Responsibilities**

**All Indiana taxpayers have certain rights and responsibilities that correspond to the Indiana tax laws. The Taxpayer Bill of Rights sets forth these rights and responsibilities for Indiana Taxpayers:**

- I      Quality taxpayer service**
- II     Taxpayer Advocate to help taxpayers in the preservation of their rights**
- III    Taxpayer education and information**
- IV    A fair collection process**
- V     Appointed hearing time and representation**
- VI    Demand Notices**
- VII   Warrants for collection of tax**
- VIII   Judgement liens against property**
- I X   Annual Public Hearing and Department Report**
- X     Taxpayer responsibilities**

## SIGNIFICANT COURT CASES (June 2003 - May 2004)



*Grand Victoria Casino & Resort, LP v. Indiana Dept. of State Revenue*  
789 N.E.2d 1041 (Ind.Tax 2003)

Grand Victoria Casino & Resort, LP and the Department filed cross-motions for summary judgment. Grand Victoria argued that it was entitled to a refund of sales tax paid for: (1) purchases of tangible personal property and services which qualified for the public transportation exemption (45 IAC 2.2-5-61(b)); (2) interstate satellite transmission services; and, (3) the 1999 capital contribution of its riverboat. The Department's issues on summary judgment concerned whether Grand Victoria owed use tax for the 1996 tax year for the purchase of its riverboat: (a) because its tax-exempt leasing of the riverboat ceased in 1999, and/or (b) because its riverboat was unlicensed and therefore required to be registered for use in Indiana. In denying Grand Victoria's first issue for summary judgment, the Tax Court held that Grand Victoria did not meet the public transportation exemption requirements. Grand Victoria was required by law to leave dock before commencing gaming and so the movement of its gamblers—despite the \$9 ticket purchase—did not constitute consideration as required by 45 IAC 2.2-5-61(b) since performing one's legal duty cannot be consideration. In granting Grand Victoria's second issue for summary judgment, the Tax Court found that the sales tax imposed pursuant to IC 6-2.5-4-6 for "intrastate" satellite transmissions did not apply to Grand Victoria because their transmissions were "interstate" beginning in Kentucky and terminating in Indiana and thus exempt under the statute. In granting Grand Victoria's third issue for summary judgment, the Tax Court held that the capital contribution was a transfer of property without consideration and therefore not a retail sale subject to sales tax. In denying the Department's summary judgment motion, the Tax Court held that because the riverboat was acquired in an "isolated or occasional sale," the use tax would apply only if the riverboat was a watercraft requiring registration by the State. The Tax Court held that since the Department failed to submit sufficient legal authority regarding the watercraft registration requirement, summary judgment was inappropriate.

*Trump Indiana, Inc. v. Indiana Dept. of State Revenue*  
790 N.E.2d 192 (Ind.Tax 2003)

Trump Indiana, Inc. appealed from a \$1.8 million assessment for use tax (including penalties and interest) for 1996 and 1997. Trump and the Department filed cross-motions for summary judgment on the following issues: (1) whether Trump was entitled to the public transportation exemption for its purchase of tangible personal property for its riverboat; (2) whether Trump was entitled to the equipment exemption for its purchase of a hotdog bun warmer and a microwave oven; (3) whether Trump was entitled to a refund of use tax it paid on the 1996 purchase of its riverboat; and, (4) whether Trump was subject the 10% negligence penalty imposed on its use tax deficiency. As to the first issue, the Tax Court denied Trump's summary judgment motion because Trump was required by law to leave dock and transport its customers prior to the commencement of gambling. Consequently, the transportation fee did not constitute consideration as required by 45 IAC 2.2-5-61(b) since performing one's legal duty cannot be consideration. The Tax Court denied Trump's motion for summary judgment on the second issue because the equipment purchased did not meet the production requirements for the exemption (IC 6-2.5-5-3(b)) which in this case necessitated a showing by the taxpayer that the equipment was used for bringing about a chemical change in the food. The Tax Court granted Trump's motion for summary

judgment on the third issue and granted the refund of use tax paid because the riverboat was classified as “real property” for property tax purposes. The fourth issue for summary judgment was granted in part and denied in part. Trump was required to pay 10% deficiency penalty for the equipment since it did not meet the exemption requirements but Trump was not required to pay the penalty for the riverboat since it was real property and not subject to use tax. The Department has appealed this decision. The Indiana Supreme Court granted certiorari.

*Eric Howland v. Indiana Dept. of State Revenue*  
790 N.E.2d 627 (Ind.Tax 2003)

Eric Howland appealed the imposition of Indiana’s gross retail and use tax (sales tax) on money he received from the installation of satellite dishes during 1991 through 1993. Howland was the sole proprietor of Total Home Entertainment and in connection with this business he sold and installed satellite dish systems. The contracts used by Howland in conducting business with his customers did not separate the installation charges from the charges for the cost of materials and consequently were classified as “mixed” transactions. Thus, the transactions between Howland and his customers constituted unitary transactions because the goods and services were “furnished under a single order or agreement and for which a total *combined* charge or price [was] calculated.” IC 6-2.5-1-1(a). Further, services rendered in such transactions are taxable only if the property (goods) transferred and the services are “inextricable and indivisible.” “Accordingly, the issue in this case turned on whether Howland’s installation services were performed *before* or *after* he transferred title...to his customers.” The case concluded that, because Howland’s customers expected him to install the equipment in working condition before title passed (thus remaining in Howland), the services were technically performed before the transfer of the property and were subject to sales tax as retail unitary transactions under IC 6-2.5-4-1(e).

*North Central Industries, Inc. v. Indiana Dept. of State Revenue*  
790 N.E.2d 198 (Ind.Tax 2003)

North Central Industries, Inc. claimed that the Department failed to grant it an exemption under IC 6-2.5-5-3(b), which is known as the equipment exemption. North Central purchased a machine which it used to shrink-wrap fireworks for resale as assortment packages. Both parties filed cross-motions for summary judgment on the issue of whether North Central’s shrink-wrap machine qualified for this exemption. The exemption is available only when the equipment purchased is used for “direct production or manufacture” of “other tangible personal property.” Because the “mere packaging” of the fireworks into an assortment did not constitute a transformation of the package into a new product or new marketable goods, the shrink-wrap machine did not qualify for the equipment exemption. See *Faris Mailing, Inc. v. Ind. Dept. of St. Rev.*, 512 N.E.2d 480. Further, the shrink-wrap process did not “increase the number of scarce economic goods” because the fireworks were sold regardless of the way they were packaged, see *Harlan Sprague Dawley, Inc. v. Ind. Dept. of St. Rev.*, 605 N.E.2d 1222). According to the Tax Court, “North Central does not create a new, marketable product, it merely packages existing fireworks...” Thus, North Central’s summary judgment motion was denied because the equipment did not constitute the direct production or manufacture of other tangible personal property as required by IC 6-2.5-5-3(b).

*Janie G. Hunt v. Indiana Dept. of State Revenue*  
790 N.E.2d 630 (Ind.Tax 2003)

Janie G. Hunt appealed a determination by the Department which found her personally liable for the withholding of employee taxes in her capacity as president of Hunt’s Health Care Center, Inc. (HHC). The sole issue before the Tax Court was whether Hunt was personally liable for HHC’s unpaid withholding taxes. The Tax Court noted that under IC 6-3-4-8(a) the test of Hunt’s personal liability in the matter was twofold wherein culpability is established by a showing that the individual was an employee or officer and then that the person had the duty to remit the withholding taxes. Because she was the president the first prong was satisfied. The second prong becomes satisfied upon a showing of three factors: (1) the person’s position in the power structure, (2) the authority granted to the person, and (3) whether the person actually exercised control over the business’ finances. Hunt was the president and sole shareholder and thus was presumed to have the authority required to satisfy the three-factor test. Though this presumption was rebuttable, Hunt failed to do so despite the fact that she claimed to have turned over the day-to-day operations to another individual because she had signed various checks for payment on the withholding taxes. Furthermore, she placed her own funds into the corporation to

cover those checks. Hunt's defense of laches was denied because the Tax Court decided that "the Department did not inexcusably delay in seeking to collect the delinquent withholding taxes." The Department's final determination was affirmed.

*Joseph Ziegler, Richard Wait, Marceline Wait, Paul Johnson, Phillis Hurd, and Frank Tester v. Indiana Dept. of State Revenue*  
797 N.E.2d 881 (Ind.Tax 2003)

Joseph Ziegler et al., appealed from the final determinations by the Department which denied their refund claims for income tax paid from 1977-1999. On cross-motions for partial summary judgment, the following issues were in question: (1) whether petitioners' appeal could be maintained as a class action despite the failure to exhaust administrative remedies pursuant to IC 6-8.1-9-7; and, (2) if not, whether IC 6-8.1-9-7 violated Article I, §§ 12 and 23 of the Indiana Constitution. As federal government employees, the petitioners wished to establish the unconstitutionality of IC 6-3-2-3.7. Petitioners also wished to include in the class action all those similarly situated—regardless of whether those persons filed claims for refund with the Department—dating back to 1977 for refunds in excess of one billion dollars. The Tax Court denied the refund claims because pursuant to IC 6-8.1-9-7 the petitioners were required to first present their claims to the Department in order to exhaust the available administrative remedies. On the second issue, the Tax Court decided that the difference in treatment between individual and class-wide relief was justified because the refund process was the only way by which the Tax Court could have jurisdiction to hear the claims. Thus, IC 6-8.1-9-7 did not violate Article I, §§ 12 and 23 of the Indiana Constitution.

*Clifford R. Eibeck v. Indiana Dept. of State Revenue*  
799 N.E.2d 1212 (Ind.Tax 2003)

Clifford Eibeck appealed from a final determination by the Department which assessed tax on personal income derived from a pension fund. The sole issue on appeal concerned whether Eibeck's pension income was subject to Indiana's adjusted gross income tax under IC 6-3-1-1. Eibeck claimed that Title 26 of U.S. Code had not been enacted into positive law. Therefore, Eibeck asserted, because IC 6-3-1-1 (Indiana's adjusted gross income tax law) was based on Title 26, it was also not positive law and hence unenforceable. The Tax Court decided that the distinction between positive and non-positive law was not controlling because Title 26 was contained in the United States Statutes at Large; thus, Title 26 was enforceable. Further, the State has the power to levy and collect taxes as prescribed by the Indiana Constitution. Moreover, IC 6-3-1-8, by the authority of 26 U.S.C. § 61(a)(11), has defined gross income as "all income from whatever source derived, including (but not limited to)...pensions." Thus, Eibeck's pension income was subject to Indiana's adjusted gross income tax under IC 6-3-1-1.

*David W. Bucker v. Indiana Dept. of State Revenue*  
804 N.E.2d 314 (Ind.Tax 2004)

David Bucker challenged the final determination of the Department denying his claim for refund of adjusted gross income tax for the 2001 tax year. His claim rests on the assertion that he "did not have any gross income, as he did not have any remuneration paid to him from any of the specific U.S. sources per 26 C.F.R. § 1.861-8(f)(1) and 26 C.F.R. § 1.861-8T(d)(2)(iii)." Further, "Bucker claim[ed] that because the source of his income was not listed in 26 C.F.R. § 1.861, it did not constitute "gross income" and, therefore, was not taxable." This argument is commonly referred to as the "Section 861 argument" or the "U.S. Sources argument" and has been "unequivocally rejected by every court which has ever considered the issue." Essentially, Mr. Bucker's claim that his wages were not gross income by reason of 26 C.F.R. § 1.861 was denied because "[t]he source rules did not exclude from United States taxation income earned by United States citizens from sources within the United States." *Takaba v. Commissioner of Internal Revenue*, 119 T.C. 285, 295.

*Southern Indiana Gas and Electric Company and Vectren Corporation, successor in interest to SIGCORP, Inc.*  
804 N.E.2d 877 (Ind.Tax 2004)

Southern Indiana Gas and Electric Co. (SIGECO) et al., appealed the Department's final determination assessing

them additional supplemental net income tax liability for 1995 and 1996. The issue involving “throwback” sales concerned whether SIGECO should have paid supplemental net income tax on sales of gas purchased from producers located outside of Indiana (LA, TX, IL) and sold to customers (also located outside of Indiana) via interstate pipelines. Because income was received from sources both within and without Indiana, the Department took the position that SIGECO should be required to pay tax pursuant to IC 6-3-2-2(b) which apportions tax liability for income derived in Indiana. 45 IAC 3.1-1-53(6) governs whether these sales should have been “thrown back” to Indiana. For 45 IAC 3.1-1-53(6) to apply, the following conditions must be met: (a) the taxpayer’s salesman operates from an office in Indiana, (b) makes a sale to purchaser in another state where taxpayer is not taxable, and (c) the property is shipped by third party to purchaser. Upon meeting these conditions, tax will be assessed by the state from which the property is shipped if the taxpayer is taxable in that state. If the taxpayer is not taxable, then the sale will be attributed to Indiana and tax will be assessed accordingly. The Tax Court held that the sales in question did not meet the requirements for application of 45 IAC 3.1-1-53(6) because the gas was shipped by SIGECO and not by a third party. Thus, SIGECO did not have to pay the supplemental net income tax liability. The Department has appealed this decision. Certiorari is currently pending.

*Simon Aviation, Inc. v. Indiana Dept. of State Revenue*  
805 N.E.2d 920 (Ind.Tax 2004)

Simon Aviation, Inc. appealed the Department’s imposition of Indiana use tax on aircraft lease payments it made during 1993-1995. Initially, Simon obtained a private ruling (“DRS87-10”) from the Department stating that its lease payments would not be subject to Indiana’s use tax because the aircraft were used primarily in interstate commerce despite the fact that they were hangared in Indiana. However, in 1992 when new case law suggested that the aircraft would be subject to use tax, the Department warned Simon on three separate occasions that renegotiation or renewal of the leases would subject them to tax liability. Simon nonetheless renegotiated the leases and use tax was imposed. Simon presented three alternative arguments: (1) the lease payments were not taxable under DRS87-10; (2) the new liability for use tax constituted a “retroactive change” in the Department’s policy which is prohibited under IC 6-8.1-3-3; or, (3) the lease payments were not taxable pursuant to the Commerce Clause. In response to the first argument, Simon’s renegotiation constituted a change in facts that would not protect it because DRS87-10 was a private ruling and private rulings are entitled to be relied upon only for the specific taxpayer and under specific fact circumstances. 45 IAC 15-3-2(d)(1) and (3). As to the second argument, the Tax Court held that there was nothing “retroactive” about the Department’s treatment of Simon because *both* DRS87-10 and the repeated warnings indicated that a change in facts would constitute a change in tax liability. The Tax Court agreed with Simon as to their third argument and found that Simon was entitled to a refund of use tax paid *up to the amount of sales tax paid in another state* because Indiana’s use tax impermissibly discriminated against interstate commerce for purchases of out-of-state aircraft since credits or setoffs against out-of-state sales taxes previously paid were not allowed.

*Aztar Indiana Gaming Corporation v. Indiana Dept. of State Revenue*  
806 N.E.2d 381 (Ind.Tax 2004)

Aztar Indiana Gaming Corporation was a licensed riverboat operator and operated an excursion gaming boat. Under IC 6-3-2-1 of Indiana’s Adjusted Gross Income Tax Act of 1963, Aztar was required to pay income tax on that portion of its adjusted gross income derived from sources within Indiana. Aztar determined its adjusted gross income by making certain adjustments to its federal taxable income. One of these adjustments required Aztar to “add back any deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level.” Aztar deducted the Riverboat Wagering Tax (“RWT”) it had paid to Indiana pursuant to IC 4-33-13-1 in calculating its federal taxable income for the years at issue. However, because Aztar did not consider the RWT to be a tax based on or measured by income it did not add those taxes back to its federal taxable income when it calculated its Indiana adjusted gross income tax liability. The Department assessed additional adjusted gross income tax and supplemental net income tax liabilities for 1995, 1997 and 1998. On cross motions for summary judgment, the sole issue was whether the RWT was “a state tax ‘based on or measured by income’ for purposes of an add-back provision in Indiana’s adjusted gross income tax law.” Aztar claimed that the RWT was an excise tax not included within the ambit of income taxes. Yet, all cash and property received by Aztar from its gaming operations constituted *income* to Aztar. The Tax Court ultimately found that although it was true that the RWT was an excise tax, it was nevertheless an excise tax that was measured by income. *Indiana Dept. of State Rev. v. Fort Wayne Nat’l Corp.*, 649 N.E.2d 109, 111 (1995). Therefore, summary judgment was granted for the Department. Aztar’s petition for rehearing was pending and has been denied by the Tax Court. Taxpayer has requested a review by the Supreme Court.



# AREAS OF RECURRING TAXPAYER NONCOMPLIANCE

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## RETURNS PROCESSING CENTER (RPC)

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The primary goal of the Returns Processing Center is to insure that all returns and payments are received, processed and posted in a timely and accurate manner. New technology is constantly being developed to facilitate this process. Although the Department receives a greater number of returns and payments electronically each successive year, it still processes over six million paper returns for 43 different tax and fee types; and, it continues to have problems with the following areas of recurring taxpayer noncompliance.

### **Math Calculation**

The top error made on all forms is when the math calculation is done. The rate of error is much higher on paper returns across all tax types than any returns filed electronically. The following is a brief listing of the highest percentage of errors by filing method and tax type:

- Individual paper-filed returns -- state and county tax math calculation
- Estimated Tax -- claiming an incorrect amount
- Individual electronically-filed returns -- Earned Income Credit information missing
- Corporate paper-filed returns -- math calculation errors
- Corporate electronically-filed returns -- estimated credit claiming incorrect amount
- Sales Tax paper-filed returns -- duplicate filings
- Withholding tax paper-filed returns -- duplicate filings

### **Use of Non-Department Payment Coupons**

Each year the Department provides preprinted coupon vouchers to taxpayers who are registered with the Department and have a previous history of filing coupons. Relevant tax types include: sales tax, withholding tax, estimated tax for both individuals and corporations, and various other taxes and fees. Each month, the Department receives several thousand payments without coupons, others with handwritten information on pieces of paper, coupons from prior filing periods with handwritten changes to fit the time periods for which the taxpayers are trying to file, or payments with no explanation at all. In addition, the Department receives numerous coupons generated by tax preparation software that cannot be processed by its automated equipment. These coupons have to be manually processed, which delays payment postings to taxpayers' accounts.

### **Post Filing Coupon (PFC)**

The following is a recurring problem the RPC encounters during the processing of the Indiana PFC that fosters the erroneous issuance of tax notices and hinders the Department's ability to process payments quickly and accurately. (The PFC is used for the payment of additional tax on the Indiana Individual Income Tax Return.)

In order for scanning equipment to properly recognize taxpayers and the amount of payments, coupons must have the dollar amount and scanline in an "OCR-A Extended" font. Department personnel have noticed that the scanlines on coupons from at least three software vendors do not include the required font. Those software companies say that users (tax practitioners) are not downloading the font when they download the documents for printing. The Department has suggested that software companies "hard code" the required font into their documents for the scanline and dollar amount.

### **Failure to Complete All the Required Lines/Information**

The Department receives numerous returns that are incomplete, which greatly delay the returns' processing. Department personnel must either complete the returns based on information provided, contact the taxpayers, or mail the returns back to the taxpayers for additional information. All of these options hinder the Department's ability to process returns quickly and efficiently.

### **Duplicate Returns**

Some taxpayers file returns electronically but then file paper copies of the same returns with the Department, thus creating duplicate returns. The second returns received by the Department's computer system will "suspend," which means they must be reviewed individually by tax analysts.

### **Filing the Wrong Return**

The Department receives numerous returns each year which are either 1) on the correct forms but for the wrong year, or 2) on the wrong forms but for the correct year. An example would be taxpayers' submitting IT-40EZ forms, even though they do not qualify for that form because of their type of income or deductions.

Taxpayers who are residents of reciprocal states often file on Indiana Form IT-40 and take deductions of the other states' incomes, rather than filing the appropriate Indiana Form IT-40RNR (Reciprocal Nonresident).

### **Failure to Attach W-2 Forms to Returns**

The Department receives a vast number of Individual Income Tax returns without W-2 forms to verify the withholding taxes taken as credits on the returns. Failure to submit W-2 forms causes the returns to be rejected and returned to taxpayers with requests for correct documentation.

### **Failure To Attach W-2 Forms to the WH-3**

The WH-3 is a reconciliation of the W-2 forms for employers; both the WH-3 and all W-2 forms must be submitted together annually. The Department often receives WH-3 forms without W-2 forms attached. It also often finds cases of taxpayers changing business names during the year but continuing to file their taxes under their previous Identification Number, and then using the incorrect forms at the end of the year to submit their withholding information for the year. Although the Department provides for the filing of WH-3 and W-2 forms using magnetic media, few taxpayers take advantage of this technology.

### **Failure to Attach the Necessary Schedules**

The Department finds that taxpayers often take deductions or credits on their tax returns, but fail to include documentation or necessary schedules to substantiate the deductions or credits being taken (e.g., College Credit, Form CC-40).

### **Failure to Comply with Enterprise Zone Deduction**

Taxpayers who live in Enterprise Zones and work for qualified employers in those zones may be qualified to take the Enterprise Zone Deduction. The deduction is one-half (1/2) of the earned income shown on Form IT-40QEC, or \$7,500, whichever is less. In most cases, the deductions are calculated incorrectly, or Form IT-40QEC, which should be completed and submitted by the employers, are not attached to the taxpayers' Forms IT-40.

### **IT-9, Extension Payment Voucher**

Taxpayers file Form IT-9, even though no tax is due; or, they file the form, showing taxes due, but fail to include a payment.

### **Penalty for Underpayment of Estimated Tax**

Taxpayers who don't have taxes withheld from their income and/or don't pay sufficient estimated taxes throughout the year usually owe penalties for underpayment of estimated taxes. Generally speaking, taxpayers who owe \$400.00 or more in state and county taxes for the year but do not have taxes withheld from paychecks need to make estimated tax payments during the year.

### **Failure to Calculate County Tax**

Often taxpayers fail to compute their county taxes. If, on January 1 of the tax year, taxpayers lived and/or worked in Indiana counties that have county taxes, they must compute the amount of county tax due at the applicable rate. Failure to calculate county taxes due may delay processing of their returns.

### **Improper Completion of County Boxes**

Some IT-40's are received with "00" inappropriately marked in the county boxes. (An example is "00" entered in the spouse boxes for a single taxpayer.) The Department's computer system recognizes "00" as meaning a non-reciprocal, out-of-state county.

### **Fuel Tax — Common Reporting Errors**

A review of previously-filed special fuel and gasoline monthly tax returns has revealed the following most common reporting errors on Forms FT-1, SF-701, MF-360, SF-900, SF-401, MF-600, SF-801, SF-IVP and FT-501, and Schedules 1A, 2A, 3A, 5 through 10, 501A, 501B and 501I:

- Return submitted without license/account number
- Return submitted without signature of person completing/filing return
- No payment submitted with a return that indicates an amount due
- Payment submitted but no return filed
- Missing schedules
- Incomplete information provided on schedules
- Transactions reported in the wrong month (All special fuel transactions must be reported in the month in which they occur.)
- Duplication of deductions on more than one schedule
- More than one fuel type reported on same schedule
- Export schedules not filed in duplicate as required
- Dyed fuel transactions reported on schedules designated as clear fuel
- Deliveries of special fuel with an Indiana destination misreported on export schedules
- Truck deliveries misreported on Schedule 6
- Computer generated forms/schedules that do not conform to Department requirements
- Not filing schedule correctly for dyed fuel use

### **Environmental Tax — Common Reporting Errors**

A review of previously-filed environmental returns has revealed the following common reporting errors on Forms UST-1, HC-500, HW-020 and SW-100:

- Forms not signed
- No Federal I.D. Numbers/Social Security Numbers
- No checks with forms
- No forms with checks
- Payment amounts are different than amounts due
- Missing schedules
- Duplicate filing

### **Trust Taxes – Retail Sales and Use Tax and/or Withholding Tax**

-Taxpayers fail to complete the entire ST-103 return and /or WH-1 and the annual WH-3. Each month, the Department receives thousands of incomplete returns. These returns cannot be automatically processed and are “suspended” until they can be manually reviewed, corrected, and posted to taxpayer accounts.

-Taxpayers do not use their complete Indiana Taxpayer Identification Numbers (TID Number) on forms and in correspondence. Indiana Taxpayer Identification Numbers use the 10-digit TID Numbers with the three-digit location number and do not drop leading zeros. Our processing system requires all 13 digits. If taxpayers have coupons with 10-digit TID Numbers, the three-digit location number, and then a single-digit, they may drop the 14th digit.

-Taxpayers send in photocopied returns being used for other time periods or other taxpayers. The information in the scanlines on preprinted returns determine where that return is credited or posted.

-Taxpayers are not using the Change Form if their business locations have closed and the business registration at the Department needs to be permanently closed. This form is included in the coupon booklet. Taxpayers need to check the box located under the space for telephone number and enter the close date. This would be used if that specific location has PERMANENTLY CLOSED (no longer in business). This should not be used if closing temporarily (such as a seasonal business).

-On business tax applications, taxpayers should be sure to include their township information. This information is required; the form cannot be processed without it. Township information is used by the Department to comply with annual Departmental reporting requirements.

-When filing amended returns, taxpayers are not clearly marking the top of the form to state “AMENDED” returns.

### **Corporate Income Tax**

-When claiming withholding credits on IT-65 or IT-20S, taxpayers are not attaching the WH-18's to income tax returns as verification of the credits claimed. Credits without this verification cannot be allowed.

-Taxpayers are not answering the question — "Is an extension of time to file attached?" — on their Indiana corporate returns (e.g., IT-20, IT-20S, IT-65) when state or federal extension forms are attached.

### **Electronic Funds Transfer (EFT)**

-EFT taxpayers are not in compliance with the recap filing requirements when they do not file quarterly recaps. Failure to comply may result in delinquency notices issued to taxpayers.

-Some EFT filers do not understand that remitting by EFT does not change due dates of tax payments.

-Once registered for EFT filing, taxpayers receive quarterly recaps and assume their due dates are now quarterly. Filing quarterly results in penalties and interest assessments for the first two months of the quarter.

### **Electronic Filing**

The Department is still receiving hundreds of Indiana Form IT-8453 mailed in by the Electronic Returns Originator (ERO) or by the taxpayer. For the Federal/State E-File Program, Indiana requires that this form be kept and maintained by the ERO. For both the Federal/State Filing Program and the Indiana I-File Program, the form is to be kept and maintained by the taxpayer.

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## **COMPLIANCE DIVISION**

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### **AERONAUTICS/TAX CLEARANCES SECTION**

The Aeronautics Section mailed 5,095 aircraft registration renewals for the calendar year 2003 with 74 owners in delinquent status as of December 2003. This translates into a 99% renewal compliance rate which is an increase of three percent in compliance over last year.

Indiana Code 6-6-6.5-2 states that any Indiana resident who owns an aircraft must register the aircraft within thirty-one (31) days from the purchase date. Any nonresident who bases an aircraft in this state for more than sixty (60) days shall register the aircraft with the Department no later than 60 days after establishing a base in Indiana.

### **Corporate Dissolutions, Reinstatement Certificates of Clearance, Grant Clearances and Letters of Good Standing**

This section has received 2,051 notices of corporate dissolution. Indiana Code 6-8.1-10-9 provides that any corporate officer or director becomes personally liable for all taxes, penalties, interest, and fees associated with the collection of liabilities for a period of one year from the date the Department is notified of the corporation's dissolution. The corporate officers or directors become personally liable because the dissolving corporation distributed corporate assets before all liabilities were satisfied. Corporate officers or directors may be absolved of any personal liability by obtaining a Certificate of Clearance from the Department. The Certificate of Clearance certifies that all liabilities due the Department have been satisfied.

Corporations that are administratively dissolved by the Secretary of State's office for noncompliance must obtain a Reinstatement Certificate of Clearance from the Department verifying the corporation is in good standing before they can be reinstated with the Secretary of State. The Department issued 1,830 Certificates of Clearance and denied or closed 789 requests due to outstanding issues.

Corporations in the process of obtaining financial loans or other state agency grant or award approval will request a Letter of Good Standing. The Department has issued 1,195 Letters of Good Standing and denied 551 requests due to missing returns or unpaid liabilities.

Over 2,600 Responsible Officer Billings were generated for trust taxes not paid by the corporation representing a total due of \$9,157,968.

## **BANKRUPTCY SECTION**

The bankruptcy section reviewed 32,419 Chapter 11, Chapter 7 (Asset/No Asset) and Chapter 13 bankruptcy notices to determine if holds needed to be placed on outstanding liabilities to prevent the Department from being in violation of the automatic stay and to see if a claim needed to be filed with the bankruptcy court based upon outstanding liabilities and/or non-filed tax returns. Of the notices reviewed, claims were filed totaling \$84,371,343. Of the preexisting cases, claims were amended reducing the assessments by \$4,833,362. This makes the net assessments for the fiscal year ending June 30, 2004 \$79,602,843..

The bankruptcy section received and processed 8,018 payments totaling \$7,101,758. Of the payments received, 874 included additional interest totaling \$64,862.

This area also handled 15,613 incoming phone calls and placed 4,213 outgoing phone calls to taxpayers, attorneys and bankruptcy trustees. We also received, edited and processed 3,989 tax returns to replace missing returns in our claims or estimates that were created because of missing returns. Our total amount of incoming mail to the section was 68,755 pieces. The total amount of incoming correspondence, which encompasses all of the mail, tax returns, checks, affidavits, faxes and e-mails was 115,191. Included in the incoming mail, the clerks and analysts researched 18,638 Chapter 11, 13 and mainly Chapter 7 No Asset Discharges and Dismissals. Four thousand five hundred fifty-four (4,554) of the notices required processing by the clerks and analysts. Our outgoing correspondence totaled 25,681.

(See graphs on Bankruptcy Collections, Claims Filed and Gross Value of Claims on Pages 59-61.)

## **INDIVIDUAL/WITHHOLDING/CORPORATIONS TAX SECTION**

The Individual Income Tax Section's mission is to identify and pursue non-filers, as well as to verify the accuracy of filed returns by utilizing information from the Internal Revenue Service, various Indiana State agencies, other state taxing agencies, and anonymous informants. The standard compliance projects and findings for Fiscal Year 2004 are as follows:

### **Federal Audits**

Information is obtained from the Internal Revenue Service concerning agreed federal tax audit reports to the Department. If taxpayers do not amend their Indiana Individual and Corporate income tax returns to report the Indiana adjustments resulting from the federal modifications detailed in the audit findings, a tax assessment is generated. For this fiscal year, corporate taxpayers were billed for an amount of \$3,628,494 and individual taxpayers for \$2,409,023.

### **CP2000 Unreported Income**

The Department obtains data from the Internal Revenue Service regarding taxpayers who failed to report all taxable income. This could be income derived from wages, interest, dividends, or non-employee compensation. These types of income are reported on W-2's or Form 1099 information returns. An assessment is generated if the income was not reported on the original return. The project resulted in taxpayer assessments for an amount of \$5,324,191.

### **Federal/State Crosscheck**

The Department obtains magnetic tape information from the Internal Revenue Service disclosing adjusted gross income and exemptions reported on the federal returns. This file is compared to the state reported adjusted gross and exemptions from our master file. Automatic billings are then generated for any state and county tax due on the differences. This project resulted in taxpayers being assessed for an amount of \$6,795,799.

### **Individual Desk Audits**

Individual desk examinations are performed, based on anonymous sources or submissions from other divisions within the Department. The examination may consist of verifying income reported, credits/deductions taken, or the amount of refund requested. Individual desk audit resulted in assessments of \$257,735.

### **Voluntary Compliance Program**

Taxpayers, who discover that they may have nexus with Indiana, but have not filed returns, frequently contact the Department and request to enter into a Voluntary Compliance Agreement. These taxpayers are often confused or unaware of filing requirements for income tax and sales/use taxes in Indiana. Tax due is not forgiven, nor is



interest abated. Voluntary Compliance Agreements were entered into for the fiscal year ending June 30, 2004, resulting in tax collected of \$2,269,224 and additional liabilities totaling \$237,843.

### **Riverboat Project**

The Department of Revenue obtained information on Indiana riverboat winnings received during 1999 and 2000 from federal Form W-2G (Certain Gambling Winnings). This information was sorted and approximately 15,000 letters were mailed to those winners who did not report this taxable income to the State of Indiana, resulting in \$999,930 additional tax revenues being collected in Fiscal Year 2004. This project will continue to target riverboat gambling payouts made during 2001 through June 30, 2002. (As of July 1, 2002, Indiana State Tax was automatically withheld from riverboat winnings in excess of \$1,200).

### **Neighborhood Assistance Program**

The total Neighborhood Assistance credits allowed in a fiscal year (July 1 to June 30) can not exceed \$2.5 million. The Indiana Department of Commerce verifies donations made to qualified Neighborhood Assistance Organizations. The Department of Revenue tracks the donations from various business entities allowing 50% of the allowable donation as a credit against gross income tax, adjusted gross income tax, or supplemental net income tax. The Department has processed 4,625 tax credits for the fiscal year ending June 30, 2004.

### **NONPROFIT/CHARITY GAMING/FIDUCIARY TAX SECTION**

This section is responsible for determining organizations' nonprofit status and for licensing qualified nonprofit organizations for bingo, festivals, raffles, door prizes and charity gaming nights. This section also licenses manufacturers and distributors to sell tip boards, punchboards and pull-tabs.

A total of \$3,939,850 in gaming fees were collected from the following licenses issued:

Annual Bingo	880
Charity Game Night	190
Door Prize	5
Festival	279
Raffle	650
Special Bingo	<u>197</u>
Total Licenses Issued	2,201

The following gaming license fees were collected:

Gaming License Fees	\$ 3,939,850.00
Manufacturers License	\$ 45,000.00
Distributors License	<u>\$ 124,000.00</u>
Total Fees Collected	\$ 4,108,850.00

During Fiscal Year 2004, the Charity Gaming Section conducted three training seminars, which were held in Plymouth, Indianapolis, and Clarksville. Approximately 401 representatives from nonprofit organizations attended these seminars, which covered the following topics:

- Legislative Changes for Not-for-Profit Organizations
- Rules & Regulation Changes
- New Forms
- Use of Proceeds
- Administrative Procedures
- Record Keeping and Retention Guidelines
- Fines and penalties
- Protest and Hearing Procedures

### **Future Charity Gaming Training and Education**

The Department will be sponsoring three (3) training seminars throughout the state during the next fiscal year. These seminars will be held in Lafayette, Jasper and Muncie. The topics for these seminars will be the same as listed above.

### **Fiduciary Tax Section**

This section processed 43,314 fiduciary returns from 7/1/2003 to 6/30/2004 representing a total of \$12,345,106 in tax collected.

### **CONSUMER USE TAX, UTILITY/TRUST/FUEL/SALES REFUNDS SECTION**

Utility exemption requests for sales tax numbered 8,157 applications for the year. This represents an 84% increase in the number of applications received from a year ago. Approximately 7,000 of the applicants qualified for 100% exemptions on their purchases of public utility services. These applicants were primarily government, nonprofit organizations and those companies engaged in manufacturing whose use of the utility was predominately for exempt purposes.

Approximately 280 business entities, such as restaurants and industrial processors, received less than total utility exemptions. These types of entities must pay sales tax on their utility bills to their vendors and then file annual refund claims for the amounts of exempt percentages allowable. Another 325 applications for exemption were totally denied as results of desk examinations. The most common reason for 100% denials was the failure of applicants to provide adequate information to support their claims.

Approximately \$2.6 million in consumer use tax bills were issued. Use tax bills were generated as a result of obtaining information on doubtful exemption users, from information received from the Audit Division, the Bureau of Motor Vehicles and from other states authorized through our exchange of information agreements. The balance was received from out-of-state companies who either owe Indiana Use Tax or have collected Indiana Sales Tax from Indiana customers, but were not legally registered.

Approximately 4,300 fuel tax refund claims were processed during the year. These claims were filed by government entities, companies and individuals that paid Gasoline Tax and Special Fuel Tax on fuel used in an exempt manner.

A total of 3,706 trust tax claims were received in the Compliance Division. Of these, approximately 85% were examined within the section. Two hundred eighty-three (283) claims were forwarded to the Audit Division for review, the balance of the claims were forwarded to other areas (e.g. individual income tax, corporation tax section, etc.) for final reviews.

# **RECOMMENDATIONS FOR IMPROVING TAXPAYER COMPLIANCE AND DEPARTMENT ADMINISTRATION**

## **TAXPAYERS' CONCERNS AND SUGGESTIONS TO THE DEPARTMENT**

The Indiana Department of Revenue conducted its annual public hearing on June 1, 2004, as announced in the IT-40 Individual Income Tax Booklet. State Revenue Commissioner Kenneth L. Miller presided over the meeting with representation from all divisions within the Department. Similar to previous years, taxpayers were provided the option of attending the hearing in person or submitting written comments.

### **Graduated Income Tax**

A taxpayer suggested that Indiana should adopt a graduated income tax. As used by the federal government, this procedure provides a lesser tax rate for lower income individuals and increases the rate in designated increments as income levels increase. Presently, the State of Indiana has a flat tax of 3.4 percent for all income levels that does allow certain deductions, credits and exemptions. A change would require approval by the Indiana General Assembly.

### **Pension Income**

Some concern about the taxing of pension income was provided. A taxpayer suggested that Indiana should follow Ohio's lead in not taxing pension income. However, a further review of the Ohio State Income Tax Return shows that Ohio does not exempt all pension income but provides for a maximum \$200 tax credit.

### **Withholding**

A taxpayer wrote the Department to point out that he works for a Tennessee company that does not withhold Indiana income tax. Lack of Indiana withholding requires the taxpayer to "write a check to pay Indiana income tax when this is a hardship." The taxpayer finds it "difficult to write a check for taxes at the end of the taxable year." If a Tennessee company does not have nexus with Indiana, there is no requirement that the company would have to withhold for Indiana income tax purposes. It would require action on the federal level to mandate such a change.

### **Military Deduction**

The taxation of military income is a continuing theme from year to year regarding suggestions for changes in tax administration. This year, one letter was received that suggests "state tax relief for the service members who are residents of Indiana." The letter specifically referred to Tennessee, Washington, Texas and Florida that offer tax breaks. In response, those four states have never adopted individual income taxes, therefore no one from those states pays state income taxes. Indiana offers a \$2,000 maximum deduction if a resident's income includes active or reserve military pay. In addition, military income earned while in a combat zone may be exempt at the federal level, and therefore, also exempt for Indiana income tax purposes.

## **IMPROVEMENTS IN THE TRAINING OF DEPARTMENT EMPLOYEES**

### **AUDIT DIVISION**

Audit Division provided training to new and veteran auditors throughout the Fiscal Year 2004 reporting period. Classes for new auditors focused on providing tax skills, computer training and report writing. Seminars for veteran auditors were presented to enhance tax auditing skills for newly enacted laws.

## **PERSONNEL DIVISION**

During Fiscal Year 2004, the Training Team presented training classes to a total of 1,457 participants.

Classes were offered in ABC's of Discrimination, Cultural Diversity, Interview and Selection, Leaves (FML, Disability, Sick, Personal, etc.), Managing in a Union Environment; New Employee Orientations 101, 102 and for Intermittents; Performance Appraisals and Progressive Discipline for supervisors, Sexual Harassment Prevention (for both employees and supervisors), Warrants on the Internet, Word 2000 and inquiries on the Returns Processing System (RPS) for accounts receivable, criminal investigation and fuel tax.

The Procedures Committee has added 22 new procedures to the RPS (Returns Processing System) Help System. The Procedures Committee was established three years ago to give the Department of Revenue employees the resources for procedures in RPS and to make them consistent throughout the agency.

A special Six Week Training Module was established for Supervisors -- 109 attended the following courses: Sexual Harassment, ABC's of Discrimination, the Union Settlements, Progressive Discipline, Performance Appraisals, the hiring process and Personnel Rules.

A committee was formed to establish Computer Based Training (CBT) for all employees to keep current on new laws dealing with all taxes. Modules tested were Individual Taxes, Sales Taxes and Withholding Taxes. The Committee will continue to work until all tax types are on line. CBT will eventually be available from all Department of Revenue employees' desktop.

## INDIANA TAX DESCRIPTIONS AND RECEIPTS

All amounts are in thousands. Percent (%) change reflects increase from FY03 to FY04, unless otherwise indicated.

### Aircraft License Excise Tax

Excise tax, due at the time of registration, is determined by weight, age and type of aircraft. All excise tax is distributed to the county where the aircraft is usually located when not in use.

FY94	\$ 413.2	FY98	\$ 381.8	FY02	\$ 548.9
FY95	\$ 395.6	FY99	\$ 392.9	FY03	\$ 649.7
FY96	\$ 404.4	FY00	\$ 430.0	<b>FY04</b>	<b>\$641.8</b>
FY97	\$ 377.6	FY01	\$ 513.8	CHANGE	-1.22%

### Alcoholic Beverage Tax

Per gallon rates are based on the wholesale purchase of the following: beer, \$.115; liquor/wine (21% alcohol or more), \$2.68; wine (less than 21% alcohol), \$0.47; mixed beverages (14% or less), \$0.47.

FY94	\$ 33,974.9	FY98	\$ 33,087.8	FY02	\$ 37,458.3
FY95	\$ 33,590.2	FY99	\$ 35,148.9	FY03	\$ 37,678.6
FY96	\$ 33,847.8	FY00	\$ 36,240.5	<b>FY04</b>	<b>\$ 38,509.2</b>
FY97	\$ 33,942.4	FY01	\$ 36,597.8	CHANGE	2.20%

### Auto Rental Excise Tax

Rates are based on the gross retail income from the rental of a vehicle weighing less than 11,000 pounds for less than a 30-day period at a rate of 4%.

FY94	\$ 5,403.0	FY98	\$ 8,047.7	FY02	\$ 9,126.7
FY95	\$ 6,282.9	FY99	\$ 8,914.0	FY03	\$ 9,500.9
FY96	\$ 6,981.3	FY00	\$ 8,101.9	<b>FY04</b>	<b>\$ 8,940.9</b>
FY97	\$ 7,836.8	FY01	\$ 9,846.8	CHANGE	-5.89%

### Charity Gaming Excise Tax

Tax based on the sale of pull tabs, punchboards and tip boards to qualified organizations licensed for charity gaming at a rate of 10% of the wholesale price. Remitted by the licensed distributor or manufacturer (not the organization).

FY94	\$ 780.5	FY98	\$ 1,222.7	FY02	\$ 1,382.5
FY95	\$ 967.7	FY99	\$ 1,313.1	FY03	\$ 1,311.9
FY96	\$ 1,008.1	FY00	\$ 1,211.1	<b>FY04</b>	<b>\$ 1,231.5</b>
FY97	\$ 1,194.3	FY01	\$ 1,521.0	CHANGE	-6.13%

### Cigarette/Other Tobacco Tax

Levied against cartons or packs of cigarettes and cigarette papers, wrappers and tubes at the following rates: pack of 20 cigarettes, \$0.555; pack of 25 cigarettes, \$0.69375; other tobacco products, 18% of wholesale price.

FY94	\$ 113,380.3	FY98	\$ 127,969.1	FY02	\$ 123,214.8
FY95	\$ 123,025.6	FY99	\$ 127,634.1	FY03	\$ 352,375.1
FY96	\$ 123,720.2	FY00	\$ 125,151.5	<b>FY04</b>	<b>\$ 338,715.7</b>
FY97	\$ 128,420.3	FY01	\$ 120,827.4	CHANGE	-3.88%

### Controlled Substance Excise Tax

Imposes a tax on illegally delivered, manufactured or possessed controlled substances. (Prescription pharmaceuticals are exempt.) Tax based on the weight and schedule of substance. Rates vary from \$3.50 to \$40.00 per gram. Once paid, a taxpayer who can remain anonymous is given a receipt for the tax which is valid for a specific time period. The payment of this tax does not legalize the controlled substance or the activity associated with it.

FY94	\$ 260.4	FY98	\$ 101.2	FY02	\$ 44.4
FY95	\$ 291.4	FY99	\$ 55.5	FY03	\$ 82.5
FY96	\$ 110.4	FY00	\$ 60.2	<b>FY04</b>	<b>\$ 33.9</b>
FY97	\$ 192.9	FY01	\$ 86.5	CHANGE	-58.91%

### Corporate Adjusted Gross Income Tax

The adjusted gross income tax rate is 8.5%.

FY94	\$ 866,840.5	FY98	\$ 950,488.6	FY02	\$ 687,877.6
FY95	\$ 896,846.2	FY99	\$ 1,006,572.4	FY03	\$ 307,178.8
FY96	\$ 911,725.7	FY00	\$ 950,323.9	<b>FY04</b>	<b>\$ 443,078.0</b>
FY97	\$ 924,048.3	FY01	\$ 842,546.3	CHANGE	44.24%

### County Adjusted Gross Income Tax

Tax determined locally for county residents or nonresidents whose principal place of employment is within a county which imposes the tax. Rates vary. (A county may adopt either the County Adjusted Gross Income Tax or the County Option Income Tax, but not both.)

FY94	\$ 236,400.0	FY98	\$ 254,264.0	FY02	\$ 343,479.4
FY95	\$ 228,824.4	FY99	\$ 265,759.0	FY03	\$ 321,835.7
FY96	\$ 236,047.2	FY00	\$ 284,537.8	<b>FY04</b>	<b>\$ 343,586.3</b>
FY97	\$ 243,561.6	FY01	\$ 308,062.2	CHANGE	6.76%

### County Economic Development Income Tax

Tax determined locally for county residents or nonresidents whose principal place of employment is within a county which imposes the tax. Rates vary.

FY94	\$ 58,321.0	FY98	\$ 97,879.2	FY02	\$ 160,225.3
FY95	\$ 64,222.8	FY99	\$ 112,551.9	FY03	\$ 146,937.1
FY96	\$ 74,388.0	FY00	\$ 121,817.0	<b>FY04</b>	<b>\$ 172,682.2</b>
FY97	\$ 80,456.4	FY01	\$ 140,547.2	CHANGE	17.52%

### County Innkeepers Tax

Tax determined locally at a rate not to exceed 5% of the gross income derived from lodging income (6% in Marion County) . Tax may be collected either by the Department or locally through the county treasurer's office.

FY94	\$ 12,671.5	FY98	\$ 18,962.8	FY02	\$ 22,586.8
FY95	\$ 14,248.6	FY99	\$ 20,251.1	FY03	\$ 24,043.4
FY96	\$ 14,973.1	FY00	\$ 21,077.4	<b>FY04</b>	<b>\$ 24,410.5</b>
FY97	\$ 15,600.7	FY01	\$ 24,073.7	CHANGE	1.53%



### County Option Income Tax

Tax determined locally for county residents or nonresidents whose principal place of employment is within a county which imposes the tax. Rates vary. (A county may adopt the County Option Income Tax or the Country Adjusted Gross Income Tax, but not both.)

FY94	\$ 245,808.1	FY98	\$ 344,646.5	FY02	\$ 497,555.7
FY95	\$ 275,462.7	FY99	\$ 368,343.2	FY03	\$ 463,054.0
FY96	\$ 285,327.6	FY00	\$ 394,089.4	<b>FY04</b>	<b>\$ 424,603.1</b>
FY97	\$ 314,942.0	FY01	\$ 437,437.3	CHANGE	-8.30%

### Estate Tax

Based on the difference between the State Death Tax Credit allowed at the federal level and the amount paid in state Inheritance Tax. Federal Estate tax credit for state calculations is being phased out, resulting in the reduction in Indiana Estate tax paid.

FY94	\$ 9,709.1	FY98	\$ 11,241.3	FY02	\$ 17,979.7
FY95	\$ 7,168.7	FY99	\$ 24,700.4	FY03	\$ 32,264.5
FY96	\$ 4,383.9	FY00	\$ 21,022.0	<b>FY04</b>	<b>\$ 7,732.4</b>
FY97	\$ 8,886.0	FY01	\$ 28,936.1	CHANGE	-76.03%

### Financial Institutions Tax

Based on the federal adjusted gross income at a rate of 8.5% for businesses which are engaged in extending credit, leasing (when it is the economic equivalent of extending credit) or credit card operations.

FY94	\$ 108,077.2	FY98	\$ 95,967.3	FY02	\$ 63,644.4
FY95	\$ 100,742.9	FY99	\$ 81,883.8	FY03	\$ 123,444.4
FY96	\$ 122,142.0	FY00	\$ 79,365.8	<b>FY04</b>	<b>\$ 79,608.6</b>
FY97	\$ 100,682.9	FY01	\$ 55,594.3	CHANGE	-35.51%

### Food and Beverage Tax

Tax determined locally for purchases of food and beverages for immediate consumption at a rate of 1% of retail sales price.

FY94	\$ 20,670.1	FY98	\$ 23,683.5	FY02	\$ 27,859.6
FY95	\$ 20,452.6	FY99	\$ 23,574.1	FY03	\$ 27,842.3
FY96	\$ 21,341.0	FY00	\$ 26,021.0	<b>FY04</b>	<b>\$ 29,550.2</b>
FY97	\$ 22,239.9	FY01	\$ 26,438.9	CHANGE	6.13%

### Gasoline Tax

The Gasoline Tax is \$.18 per gallon for all invoiced gallons of gasoline collected by the licensed distributor and added to the selling price.

FY94	\$ 420,237.5	FY98	\$ 455,569.6	FY02	\$ 480,808.9
FY95	\$ 430,807.7	FY99	\$ 466,427.9	FY03	\$ 518,295.6
FY96	\$ 437,096.3	FY00	\$ 464,152.8	<b>FY04</b>	<b>\$ 582,610.7</b>
FY97	\$ 443,869.2	FY01	\$ 493,684.2	CHANGE	12.41%

### Hazardous Waste Disposal Tax

Based on the amount of hazardous waste (as defined by statute) placed in a disposal facility or by means of underground injection at a rate of \$11.50 per ton.

FY94	\$ 2,733.3	FY98	\$ 2,603.0	FY02	\$ 1,304.5
FY95	\$ 2,634.8	FY99	\$ 1,744.7	FY03	\$ 1,122.6
FY96	\$ 2,575.5	FY00	\$ 1,770.1	<b>FY04</b>	<b>\$ 1,219.2</b>
FY97	\$ 2,390.1	FY01	\$ 1,542.5	CHANGE	8.61%

### Individual Adjusted Gross Income Tax

Based on the federal adjusted gross income with numerous adjustments for individual residents, partners, stockholders in Subchapter S Corporations, trusts, estates and nonresidents with Indiana income sources at a rate of 3.4%.

FY94	\$ 2,541,895.1	FY98	\$ 3,433,445.9	FY02	\$ 3,540,819.1
FY95	\$ 2,767,743.1	FY99	\$ 3,699,316.6	FY03	\$ 3,644,159.4
FY96	\$ 2,966,265.7	FY00	\$ 3,753,339.5	<b>FY04</b>	<b>\$ 3,807,860.9</b>
FY97	\$ 3,197,117.8	FY01	\$ 3,779,805.4	CHANGE	4.49%

### Inheritance Tax

Based on the taxpayer class (transferee's relationship to deceased); property's taxable value; residency status; and situs of real and tangible property and intangible property.

FY94	\$ 88,604.6	FY98	\$ 113,141.7	FY02	\$ 123,905.6
FY95	\$ 98,886.3	FY99	\$ 124,011.8	FY03	\$ 165,710.5
FY96	\$ 93,767.2	FY00	\$ 119,198.1	<b>FY04</b>	<b>\$ 132,262.8</b>
FY97	\$ 106,470.1	FY01	\$ 134,748.2	CHANGE	-20.18%

### Marion County Admissions Tax

Specific to the RCA Dome, Victory Field and Conseco Fieldhouse in Indianapolis for any event at a rate of 5% of the admission price (does not include events sponsored by education institutions, religious or charitable organizations.)

FY94	\$ 607.1	FY98	\$ 931.4	FY02	\$ 4,247.0
FY95	\$ 713.0	FY99	\$ 1,209.9	FY03	\$ 4,457.0
FY96	\$ 860.3	FY00	\$ 4,567.5	<b>FY04</b>	<b>\$ 5,041.8</b>
FY97	\$ 966.3	FY01	\$ 4,527.7	CHANGE	13.12%

### Marion County Supplemental Auto Rental Excise Tax

Based on the gross retail income from the rental of passenger motor vehicles and trucks in Marion County for less than a 30-day period at a rate of 2%. Revenue from the tax is paid to the Capital Improvement Board of Managers.

FY94	—	FY98	\$ 1,330.1	FY02	\$ 1,950.4
FY95	—	FY99	\$ 1,667.8	FY03	\$ 1,772.5
FY96	—	FY00	\$ 1,658.7	<b>FY04</b>	<b>\$ 1,827.3</b>
FY97	—	FY01	\$ 1,883.7	CHANGE	3.09%

### Motor Carrier Fuel Tax

Per gallon rate of \$0.16 for all motor fuel used by commercial motor carriers operating on Indiana highways.

FY94	\$ 13,721.2	FY98	\$ 9,869.4	FY02	\$ 5,068.7
FY95	\$ 11,597.2	FY99	\$ 7,039.4	FY03	\$ 5,186.2
FY96	\$ 9,605.5	FY00	\$ 5,745.2	<b>FY04</b>	<b>\$ 6,759.4</b>
FY97	\$ 7,431.2	FY01	\$ 3,727.0	CHANGE	30.33%

### Motor Carrier Surcharge Tax

Per gallon rate of \$0.11 for all motor fuel used by commercial motor carriers operating on Indiana highways.

FY94	\$ 60,561.8	FY98	\$ 93,552.6	FY02	\$ 79,466.6
FY95	\$ 78,437.4	FY99	\$ 90,232.4	FY03	\$ 79,540.8
FY96	\$ 67,380.2	FY00	\$ 76,747.4	<b>FY04</b>	<b>\$ 85,343.2</b>
FY97	\$ 61,220.0	FY01	\$ 90,891.2	CHANGE	7.29%

### Motor Vehicle Excise Tax

Specific compliance program authorized by statute aimed at locating vehicles owned by Indiana residents and registered illegally out of state, thus avoiding State Vehicle Excise Tax. Based on the age and class of vehicle, plus penalty and interest for the time period vehicle is illegally registered. (Except for this program, Motor Vehicle Excise Tax is otherwise collected by the Bureau of Motor Vehicles.)

FY94	\$ 923.8	FY98	\$ 468.6	FY02	\$ 14.1
FY95	\$ 631.4	FY99	\$ 281.4	FY03	\$ 10.9
FY96	\$ 832.1	FY00	\$ 122.1	<b>FY04</b>	<b>\$ 11.2</b>
FY97	\$ 732.1	FY01	\$ 20.4	CHANGE	2.75%

### Pari-Mutual Admission Tax

Imposed at \$0.20 for each person who pays an admission charge to a racetrack grounds or satellite facility.

FY94	—	FY98	\$ 29.6	FY02	\$ 13.9
FY95	\$ 74.9	FY99	\$ 26.0	FY03	\$ 9.7
FY96	\$ 62.7	FY00	\$ 21.4	<b>FY04</b>	<b>\$ 8.0</b>
FY97	\$ 34.8	FY01	\$ 18.3	CHANGE	-17.53%

### Pari-Mutual Wagering Tax

A 2% levy is imposed on the total amount of money wagered on online races and simulcasts conducted at a permit holder's racetrack. The tax is 2.5% of the total amount of money wagered on simulcasts from satellite facilities.

FY94	—	FY98	\$ 3,499.1	FY02	\$ 3,537.4
FY95	\$ 1,397.7	FY99	\$ 3,648.5	FY03	\$ 3,744.8
FY96	\$ 3,211.9	FY00	\$ 3,751.7	<b>FY04</b>	<b>\$ 4,154.2</b>
FY97	\$ 3,450.2	FY01	\$ 3,534.3	CHANGE	10.93%

### Petroleum Severance Tax

Levied against producers or owners of crude oil or natural gas and imposed at the time these products are removed from the ground at a rate equal to the greater of either 1% of the petroleum value, or \$0.03 per 1,000 cubic feet for natural gas and \$0.24 per barrel of oil.

FY94	\$ 696.4	FY98	\$ 642.5	FY02	\$ 579.8
FY95	\$ 653.2	FY99	\$ 506.3	FY03	\$ 517.2
FY96	\$ 574.0	FY00	\$ 467.0	<b>FY04</b>	<b>\$ 557.5</b>
FY97	\$ 614.9	FY01	\$ 565.3	CHANGE	7.79%

### Public Utility Tax (Railroad Car Companies/Railroads)

Based each year on assessments by the State Board of Tax Commissioners on the indefinite-situs distributable property of a railroad company that provides service within a commuter transportation district. This reduction reflects the reassessment of 2003.

FY94	\$ 4,267.1	FY98	\$ 5,080.2	FY02	\$ 5,020.5
FY95	\$ 4,440.6	FY99	\$ 5,786.7	FY03	\$ 5,815.5
FY96	\$ 4,894.7	FY00	\$ 5,996.7	<b>FY04</b>	<b>\$ 3,596.9</b>
FY97	\$ 5,077.9	FY01	\$ 8,586.6	CHANGE	-38.15%

### Riverboat Admissions Tax

Specific to any licensed riverboat on Indiana waterways at a rate of \$3.00 per person admitted.

FY94	—	FY98	\$ 90,921.4	FY02	\$ 127,769.1
FY95	—	FY99	\$ 110,745.4	FY03	\$ 80,553.4
FY96	\$ 4,597.7	FY00	\$ 116,565.6	<b>FY04</b>	<b>\$ 80,684.6</b>
FY97	\$ 56,262.5	FY01	\$ 118,630.0	CHANGE	0.16%

### Riverboat Wagering Tax

If a licensed riverboat does not have flexible scheduling (dockside gaming), a tax of 22.5% (up from 20%) is levied against its adjusted gross receipts (total wagers, less payouts, less uncollected gaming receivables). If the boat has implemented flexible scheduling, the tax rate is graduated and ranges from 15% to 35%, depending on the adjusted gross receipts.

FY94	—	FY98	\$ 231,890.1	FY02	\$ 381,814.2
FY95	—	FY99	\$ 295,181.4	FY03	\$ 586,437.0
FY96	\$ 13,354.7	FY00	\$ 328,200.8	<b>FY04</b>	<b>\$ 679,482.9</b>
FY97	\$ 146,084.1	FY01	\$ 349,092.0	CHANGE	15.87%

### Sales and Use Tax

6% on purchases of tangible personal property, public utility service and some rental transactions, which is collected at the retail level.

FY94	\$ 2,600,667.8	FY98	\$ 3,278,755.6	FY02	\$ 3,798,489.0
FY95	\$ 2,810,403.8	FY99	\$ 3,414,847.5	FY03	\$ 4,210,262.5
FY96	\$ 2,965,275.9	FY00	\$ 3,687,291.7	<b>FY04</b>	<b>\$ 4,759,445.3</b>
FY97	\$ 3,145,959.5	FY01	\$ 3,723,138.6	CHANGE	13.04%

### Special Fuel Tax

A license tax of \$0.16 per gallon imposed on all special fuel sold or used in producing or generating power for propelling motor vehicles.

FY94	\$ 125,911.3	FY98	\$ 151,245.0	FY02	\$ 170,308.4
FY95	\$ 124,399.8	FY99	\$ 161,779.4	FY03	\$ 172,712.6
FY96	\$ 143,727.0	FY00	\$ 186,794.0	<b>FY04</b>	<b>\$ 183,826.1</b>
FY97	\$ 147,552.8	FY01	\$ 151,335.7	CHANGE	6.43%

(Continued on Page 10)

### Utility Receipts Tax

The Utility Receipts Tax is 1.4% on gross receipts from retail utility sales. (**NOTE:** Fiscal Year 2003 figures indicate only one-half of a fiscal year.)

FY94	—	FY98	—	FY02	—
FY95	—	FY99	—	FY03	\$ 75,907.7
FY96	—	FY00	—	<b>FY04</b>	<b>\$ 167,401.1</b>
FY97	—	FY01	—	CHANGE	120.53%

## **MISCELLANEOUS FEES:**

### **Aircraft Registration Fee**

All Indiana aircraft are required to be registered with the Aeronautics Section of the Compliance Division where an annual \$10 registration/transfer fee is collected. An additional fee of \$20 or 20% (whichever is greater) of the unpaid excise tax is charged on all late registrations. There is also an annual aircraft dealers fee of \$25.

FY94	\$ 71.7	FY98	\$ 70.2	FY02	\$ 94.5
FY95	\$ 70.1	FY99	\$ 65.1	FY03	\$ 76.5
FY96	\$ 68.0	FY00	\$ 79.6	<b>FY04</b>	<b>\$ 75.1</b>
FY97	\$ 68.4	FY01	\$ 118.9	CHANGE	-1.83%

### **Charity Gaming Licensing Fee**

Licensing fee for qualified organizations is \$25 for the first license. Second license for the same charity gaming activity is based on gross receipts of previous event. Annual license for distributors is \$2,000. Annual license for manufacturers is \$3,000.

FY94	\$ 2,557.5	FY98	\$ 3,950.1	FY02	\$ 4,282.5
FY95	\$ 3,264.7	FY99	\$ 4,264.6	FY03	\$ 4,208.7
FY96	\$ 3,635.1	FY00	\$ 4,328.0	<b>FY04</b>	<b>\$ 4,038.9</b>
FY97	\$ 3,997.2	FY01	\$ 4,303.4	CHANGE	-4.03%

### **Employment Agency Licensing Fee**

A person, firm or corporation opening, operating or maintaining an employment agency must pay an annual \$150 fee for each license.

FY94	\$ 35.2	FY98	\$ 53.1	FY02	\$ 57.9
FY95	\$ 40.2	FY99	\$ 51.3	FY03	\$ 49.7
FY96	\$ 42.2	FY00	\$ 51.6	<b>FY04</b>	<b>\$ 43.8</b>
FY97	\$ 37.7	FY01	\$ 54.5	CHANGE	-11.87%

### **Hazardous Chemical Fee**

An annual fee is imposed on a facility which must submit to the state an emergency and hazardous chemical inventory form. Fees are \$50, \$100 or \$200, depending on the volume of hazardous chemicals present at the facility during the year.

FY94	\$ 655.8	FY98	\$ 623.1	FY02	\$ 573.4
FY95	\$ 653.8	FY99	\$ 576.4	FY03	\$ 581.7
FY96	\$ 652.2	FY00	\$ 546.2	<b>FY04</b>	<b>\$ 662.0</b>
FY97	\$ 650.5	FY01	\$ 511.3	CHANGE	13.80%

### **International Registration Plan (IRP) Licensing Fee**

Licensing fee for motor carriers based on miles driven in specific jurisdictions.

FY94	—	FY98	\$ 71,577.9	FY02	\$ 80,293.7
FY95	—	FY99	\$ 75,941.9	FY03	\$ 82,395.1
FY96	\$ 67,140.5	FY00	\$ 89,320.1	<b>FY04</b>	<b>\$ 86,454.0</b>
FY97	\$ 74,300.4	FY01	\$ 76,728.7	CHANGE	4.93%

### Oversize /Overweight Permit Fee

Various categories of permits for motor carriers that are issued for different periods of time, based upon a vehicle's specific dimension and /or size and the travel activity. Fees can range from \$10.00 to over \$400.00.

FY94	—	FY98	\$ 11,252.7	FY02	\$ 11,849.5
FY95	—	FY99	\$ 11,528.3	FY03	\$ 11,041.1
FY96	\$ 3,701.8	FY00	\$ 12,782.3	<b>FY04</b>	<b>\$ 11,498.9</b>
FY97	\$ 9,844.3	FY01	\$ 12,358.6	CHANGE	4.15%

### Solid Waste Management Fee

Imposed on the disposal or incineration of solid waste in a final disposal facility within the state at a rate of \$.50 per ton of waste generated in the state. For solid waste generated outside the state, the rate is the greater of \$.50 per ton or the cost per ton of disposing the solid waste, including the tipping fees and state and local government fees, in the final disposal facility that is closest to the area in which the solid waste was generated, minus the fee actually charged for the disposal or incineration of the solid waste by the owner or operator of the final disposal facility.

FY94	\$ 3,421.0	FY98	\$ 4,623.0	FY02	\$ 4,320.3
FY95	\$ 3,789.6	FY99	\$ 4,612.7	FY03	\$ 4,002.8
FY96	\$ 3,850.6	FY00	\$ 4,516.8	<b>FY04</b>	<b>\$ 4,358.6</b>
FY97	\$ 4,494.4	FY01	\$ 4,318.0	CHANGE	8.89%

### Underground Storage Tank Fee

An annual fee of \$200 per tank is imposed on owners of underground storage tanks. In addition, there is an annual registration fee of \$90 for each underground petroleum storage tank; and \$45 for each underground storage tank containing regulated substances other than petroleum.

FY94	\$ 7,564.4	FY98	\$ 28,758.5	FY02	\$ 24,306.6
FY95	\$ 8,344.3	FY99	\$ 26,409.5	FY03	\$ 35,992.1
FY96	\$ 6,580.6	FY00	\$ 27,709.5	<b>FY04</b>	<b>\$ 32,065.1</b>
FY97	\$ 8,481.2	FY01	\$ 32,467.5	CHANGE	-10.91%

### Waste Tire Management Fee

A \$.25 tire fee is assessed on each new tire sold at retail and each new tire mounted on a vehicle at the time a vehicle is sold. Imposed on tires for self-propelled motor vehicles only.

FY94	\$ 869.2	FY98	\$ 1,253.6	FY02	\$ 613.8
FY95	\$ 1,304.1	FY99	\$ 1,963.8	FY03	\$ 1,079.3
FY96	\$ 1,266.7	FY00	\$ 3,203.6	<b>FY04</b>	<b>\$ 1,612.0</b>
FY97	\$ 1,333.2	FY01	\$ 911.8	CHANGE	49.36%



## AUDIT DIVISION STATISTICAL STUDY

**The following information is based on 100% of the audits completed, taxpayers assisted and special projects conducted during Fiscal Year 2004 and addresses the requirements set forth by IC 6-8.1-14-4(2).**

*(See Page 45 for an index of exhibits and charts included.)*

- Taxpayers Served in District Offices, Pg. 40
- Gross Income Tax Violations, Pg. 41
- Sales/Use Tax Violations, Pg. 41
- Corporate Adjusted Gross Income Tax Violations, Pg. 41
- Amounts of Tax Assessed, Pg. 42
- Industry/Business Most Frequently in Violation, Pg. 43
- Special Tax Violations, Pg. 43
- Miscellaneous Code Violations, Pg. 44
- Number of Years in Audit Period, Pg. 44
- Use of Professional Tax Preparation Assistance, Pg. 44
- Filing of Appropriate Tax Returns, Pg. 44
- Special Projects, Pg. 44

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### Taxpayers Served in District Offices

Taxpayer assistance is available in all district offices. Each office has a taxpayer assistance supervisor and assistant who perform taxpayer service functions, as well as other office support responsibilities. Each office has at least one field investigator who supports taxpayer assistance and performs collection functions in the district. Contract employees are available during peak periods to support taxpayer assistance.

The "Taxpayer Assistance Report-Fiscal Year 2004" (Exhibit A) provides the number of taxpayers assisted (in person and by telephone) and the amount of money collected and assessed in each office by the taxpayer assistance program. Exhibit A reveals that during Fiscal Year 2004 district offices assisted 141,270 taxpayers in person and 157,868 taxpayers through telephone contact. Total taxpayers served by the district offices is 299,138.

The district office in Clarksville served 23,468 taxpayers in person, the highest number of any district office. The Columbus District Office served 21,528 taxpayers in person, the second highest total.

The Kokomo District Office served 18,906 taxpayers by telephone, the highest number of any district office, with the Clarksville District Office coming in second at 18,695 taxpayers. Together, these telephone contacts total 24% of total taxpayer telephone contacts (157,868).

The Clarksville District Office came in highest with the total number of 42,163 taxpayers served, both by telephone and in person, while Columbus was second by serving a total of 40,016 taxpayers by telephone and walk-in assistance.

"Field Auditors Taxpayer Assistance/Special Project Statistics" (Exhibit B) provides the number of hours devoted by field auditors in the district offices to assist taxpayers and conduct special projects. The exhibit reveals that 12,584 auditor hours were channeled in this direction.

## **Gross Income Tax Violations**

The most frequently violated gross income tax rules, 45 IAC 1.1-2-4 and 45 IAC 1.1-2-5, produced an equal number of violations. Rule 2-4 defines taxable high rate income of utilities, display advertising, sale of real estate, rentals and extension of credit while Rule 2-5 defines taxability of gross receipts from services. Violations (26 each) of these rules accounted for 14.69% each of all violations of the gross income tax rules in the statistics. Rule 45 IAC 1.1-2-4 was the most violated rule in the 2003 report with 16.78% while Rule 2-5 was the second most frequently violated rule in 2003 accounting for 14.73% of gross income tax violations.

Ranking second are IAC 1.1-2-2 and IAC 45 1.1-3-3 with equal violations. Rule 2-2 defines taxable low rate gross income of retail and wholesale sales, display advertising, dry cleaning and laundry service, rental of water softening equipment, rental of rooms, lodging, booths and similar accommodations and commercial printing. Rule 3-3 defines the interstate commerce exemption as applied to gross receipts. Violations (20 each) of these rules accounted for 11.30% each of all violations of the gross income tax rules in the 2004 statistics. As noted above, Rule 2-5 ranked second in violations in the 2003 report. Rule 2-2 ranked third in the 2003 study with 37 (12.67%) infractions. Rule 3-3 did not appear in the top three rules violated in 2003 but was the second most frequently violated rule in the 2002 statistics accounting for 35 (10.61%) of infractions.

## **Sales/Use Tax Violations**

The most frequently violated sales and use tax rule is 45 IAC 2.2-3-20. Rule 3-20 states that if the seller of tangible personal property for storage, use or consumption in Indiana fails to collect the appropriate tax, the purchaser of such property must remit tax directly to the Department. This rule produced 258 violations (12.28%) of the sales and use tax infractions. In the 2003 study, Rule 3-20 accounted for 14.67% of sales and use tax infractions and also ranked first. This rule also ranked first in the 2002 study accounting for 12.72% of sales and use tax infractions.

The second most frequently violated sales and use tax rule is 45 IAC 2.2-3-4. Rule 3-4 imposes use tax on "tangible personal property, purchased in Indiana, or elsewhere in a retail transaction, and stored, used or otherwise consumed in Indiana...unless the Indiana state gross retail tax (sales tax) has been collected at the point of purchase." This rule accounted for 239 infractions or 11.38% of sales and use tax statute violations. Rule 3-4 ranked second in the 2003 study with 378 infractions (10.18%). The second most violated sales and use rule in 2002 was 45 IAC 2.2-5-8 (11.25%) (explained in next paragraph). 45 IAC 2.2-3-20 (explained above) was the second most violated rule in the 2001 and 2000 studies accounting for 500 and 664 violations respectively.

The third most violated rule for the 2004 fiscal year is 45 IAC 2.2-5-8. Rule 5-8 clarifies sales and use tax by providing examples of taxable and nontaxable sales of manufacturing machinery, tools and equipment used in direct production and other activities. Failure of taxpayers to comply with this rule accounts for 195 or 9.28% of the sales and use tax infractions. Rule 5-8 ranked third in the 2003 study and second in the 2002 study with 363 and 535 infractions. Rule 3-4 with 481 violations ranked third in violations in 2001 study.

## **Corporate Adjusted Gross Income Tax Violations**

Corporate taxpayers violated adjusted gross income Rule 45 IAC 3.1-1-8 more than any other rule. This rule states that taxable income as defined in the Internal Revenue Code is modified in several ways to arrive at Indiana adjusted gross income. Violations (40) of this rule accounted for 15.81% of the total violations in the 2004 study. Rule 1-8 was also the most violated rule in 2003 with 76 or 14.10% of total infractions; 2002 with 94 or 12.21% of infractions; and 2001 with 119 or 13.52% of total infractions. The 2000 report revealed Rule 1-97 ranked first for adjusted gross income infractions with a 22.00% violation rate. Rule 1-97 addresses returns and reports filed by withholding agents.

Rule 45 IAC 3.1-1-9 was the second most frequently violated rule under this study. This rule discusses the net operating loss deduction in computing Indiana Adjusted Gross Income for corporations. These violations (27) account for 10.67% of the total violations for 2004. Rule 1-1 ranked second in the 2003 study with 63 violations accounting for 11.69% of infractions. 45 IAC 3.1-1-9 ranked second in the 2002 report with 10.26% of violations. Rule 45 IAC 3.1-1-97 (explained below) ranked second in the 2001 study with 115 violations accounting for 13.07% of the total violations.

The third most frequently violated rule is 45 IAC 3.1-1-97. Rule 1-97 addresses returns and reports filed by withholding agents. Violations (26) of this rule accounted for 10.28% of the violations of adjusted gross income tax rules. The 2002 study revealed 45 IAC 3.1-1-97 ranked third with 72 (9.35%) of the violations. 45 IAC 3.1-1-9 was the third most violated rule in the 2003 and 2001 studies accounting for 61 (11.32%) and 90 (10.22%) of the violations of adjusted gross income tax rules. The 2000 violations of 45 IAC 3.1-1-9 also ranked third with 8.62%.

## Amounts of Tax Assessed

Exhibits C, D and E display the amount of assessments (refunds) of the gross income tax, sales tax and adjusted gross income tax administrative rules, respectively. "Total assessments" for any tax type represent gross assessments less amounts refunded.

The amount assessed or refunded for each of the most frequent violations and the percentage of the amount to total net assessments are presented below:

### Gross Income Tax—Exhibit C:

	Amount Assessed	Percentage of All Assessments
45 IAC 1.1-2-5*	\$6,209,277	40.76%
45 IAC 1.1-2-4*	\$1,050,220	6.89%
45 IAC 1.1-3-3**	\$ 541,733	3.56%
45 IAC 1.1-2-2**	\$ 319,866	2.10%

Equal Infractions for Number 1 (\*) and Number 2 (\*\*)

### Sales/Use Tax—Exhibit D:

	Amount Assessed	Percentage of All Assessments
45 IAC 2.2-3-20	\$2,741,304	11.77%
45 IAC 2.2-3-4	\$2,338,798	10.04%
45 IAC 2.2-5-8	\$2,576,597	11.06%

### Corporate Adjusted Gross Income Tax—Exhibit E:

	Amount Assessed	Percentage of All Assessments
45 IAC 3.1-1-8	\$25,634,731	43.44%
45 IAC 3.1-1-9	\$( 1,116,228)	(1.89%)
45 IAC 3.1-1-97	\$ 180,432	.31%

## **Industry /Business Most Frequently In Violation**

### Gross Income Tax

For the twelfth consecutive reporting period, taxpayers engaged in manufacturing most frequently violated the gross income tax rules. This group committed 48 violations or 27.12% of the total violations. The gross income tax rule most frequently violated by this group of taxpayers was 45 IAC 1.1-3-3. This rule defines the interstate commerce exemption as applied to gross receipts.

The second largest number of gross income tax violations was committed by taxpayers providing repair, personal services and other services. This group committed 44 infractions or 24.86% of the total violations for 2004. The most frequently violated rule of this group was 45 IAC 1.1-2-5 which defines gross receipts derived from services.

### Sales and Use Tax

For the 2004 reporting period, repair, personal services and other services are the industries with the most infractions. They accounted for 561 violations or 26.70% of the total sales and use tax violations. The most frequently violated rule by these taxpayers was 45 IAC 2.2-5-12 which defines exemption from sales tax of tangible personal property consumed in direct production when producing tangible personal property by manufacturing, processing, refining or mining.

Wholesale, retail and transportation businesses had the second most frequency of violations for the sales and use tax rules. There were 386 violations committed by this group representing 18.37% of the total violations. The rule most frequently violated by this group was 45 IAC 2.2-3-4, which imposes use tax on "tangible personal property, purchased in Indiana, or elsewhere in a retail transaction, and stored, used or otherwise consumed in Indiana...unless the Indiana state gross retail tax (sales tax) has been collected at the point of purchase."

### Adjusted Gross Income Tax

Repair, personal service and other service providers with 72 infractions, were the most frequent violators of adjusted gross income tax rules. This figure represents 28.46% of the total adjusted gross income tax violations. 45 IAC 3.1-1-1, which defines adjusted gross income for individuals in relationship to Section 62 of the Internal Revenue Code, accounted for the most infractions in this class.

The manufacturing industry ranked second in violation of the adjusted gross income rules. They committed 62 infractions or 24.51% of the adjusted gross income tax violations. 45 IAC 3.1-1-9 was the most violated rule by manufacturers. Rule 1-9 discusses the modifications to Internal Revenue Code Section 172 to determine Indiana adjusted gross income for corporations.

## **Special Tax Violations**

Exhibit G provides the special tax assessments and refunds by citation.

Article VIII (citation R800 on exhibit) of the International Fuel Tax Agreement (IFTA) was the most frequently violated special tax item in the study. It specifies the taxable event is the consumption of motor fuels in the propulsion of qualified motor vehicles, except fuel consumed that is exempt from taxation by a jurisdiction. All motor fuel acquired that is normally subject to consumption tax is taxable unless proof to the contrary is provided by the licensee. Article VIII was violated 182 times and yielded \$487,571 in net assessments for the State of Indiana. This represents 24.20% of total violations and 53.15% of net assessments.

The exhibit also reveals that Article X (citation R1000 on exhibit) of the International Fuel Tax Agreement (IFTA) was the second most frequently violated section of the special tax statutes. This Article discusses how taxpayers can obtain credit for tax previously paid on purchases of fuel at the pump. It also lists the records needed to substantiate the refund request. This article was violated 180 times accounting for 23.94% of the total violations. These violations resulted in a net refund of (\$57,386).

The taxpayer group most frequently in violation of the special tax statutes and IFTA Articles was the wholesale, retail and transportation industries. This group committed 360 violations accounting for 47.87% of the total infractions. Article X of the International Fuel Tax Agreement was most frequently violated by the wholesale,

retail and transportation industries.

## **Miscellaneous Code Violations**

Exhibit F provides the assessment amounts for the following:

Financial Institutions Tax  
Tax Administration  
Food and Beverage Tax  
Innkeeper's Tax  
Charity Gaming

A review of the miscellaneous code violations data reveals that IC 6-8.1-4-2 was violated 16 (12.12%) times in the 2004 study. These violations yielded (\$29,607) in net refunds. Chapter 4-2 discusses examination of records maintained by a taxpayer. In the 2003 study, IC 6-8.1-9-1 (which discusses filing claims for refunds, time limitations, hearings and appeals for refunds) produced 57 (18.45%) infractions. IC 6-8.1-4-2 was the most violated rule in the 2002 study with 24 (14.46%). 45 IAC 15-9-2 was the most violated rule in the 2001 study. Rule 9-2 defines the statute of limitations as it applies to refunds.

The 15 violations of 45 IAC 15-9-2 was the second most violated rule in this category in 2004. It yielded a total of \$(1,369,297) in net refunds. Rule 9-2 is defined above. Rule 9-2 was the second most violated citation in the 2003 and 2002 studies.

## **Number of Years in the Audit Period**

The audit period consistently averages three years.

## **Use of Professional Tax Preparation Assistance**

The services of professional preparers were used in the preparation of 75.50% of the corporate income tax returns and 11% of the sales tax returns. These findings remain consistent with the previous years' reports.

## **Filing of Appropriate Tax Returns**

Rule 45 IAC 3.1-1-92 (Exhibit E) requires qualifying corporations to make estimated tax payments. Taxpayers in violation of this rule either failed to file estimated income tax returns or failed to remit the appropriate amount of tax. For the fiscal year ending in 2004, no activity was recorded. The 2003 study indicated 8 violations of this rule, resulting in assessments in the amount of \$12,863 and refunds totaling (\$110,617).

Indiana Code 6-8.1-10-2.1 (Exhibit F) revealed no violations during the 2004 study period. This section specifies the penalty to be imposed if a taxpayer fails to file an appropriate return or pay the full amount of tax due. Violations of this section in the 2003, 2002, and 2001 studies were zero.

## **Special Projects**

The project of identifying taxpayers with delinquent filing periods reported in the 2003 Report was continued during the 2003 Fiscal Year. Examination of data generated by this project identified and closed inactive accounts; encouraged delinquent taxpayers to file correct returns; and collected substantial funds related to the filings.

Accounts Worked: 13,341      Accounts Closed: 2,724      Funds Collected: \$15,229,806

# EXHIBITS

## AUDIT DIVISION

Taxpayer Assistance Report -- District Offices Taxpayers Served in District Offices	<b>Exhibit A</b>	Page 46
Field Auditors Taxpayer Assistance/Special Projects	<b>Exhibit B</b>	Page 47
Standard Industrial Codes		Page 47
Dollars Assessed in 45 IAC Citations by Industrial Code Gross Income Tax Audits	<b>Exhibit C</b>	Page 48
Gross Income Tax Violations by Industry Group Gross Income Tax Dollars Assessed by Industry Group		Page 49
Dollars Assessed in 45 IAC Citations by Industrial Code Sales and Use Tax Audits	<b>Exhibit D</b>	Pages 50-51
Sales and Use Tax Violations by Industry Group Sales and Use Tax Dollars Assessed by Industry Group		Page 52
Dollars Assessed in 45 IAC Citations by Industrial Code Adjusted Gross Income Tax Audits	<b>Exhibit E</b>	Page 53
Adjusted Gross Income Tax Violations by Industry Group Adjusted Gross Income Tax Dollars Assessed by Industry Group		Page 54
Dollars Assessed for Miscellaneous Code Violations by Industrial Code	<b>Exhibit F</b>	Page 55
Miscellaneous Code Violations by Industry Group Miscellaneous Tax Dollars Assessed by Industry Group		Page 56
Dollars Assessed in Code Article Citations by Industrial Code Special Tax Audits	<b>Exhibit G</b>	Page 57
Special Tax Violations by Industry Group Special Tax Dollars Assessed by Industry Group		Page 58

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## COMPLIANCE DIVISION

BANKRUPTCY 20-YEAR COMPARISON	
Collections	Page 59
Number of Claims Filed	Page 60
Gross Value of Claims	Page 61

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<b>2003 INDIANA INDIVIDUAL INCOME TAX BREAKDOWN BY FILING METHOD</b>	Page 62
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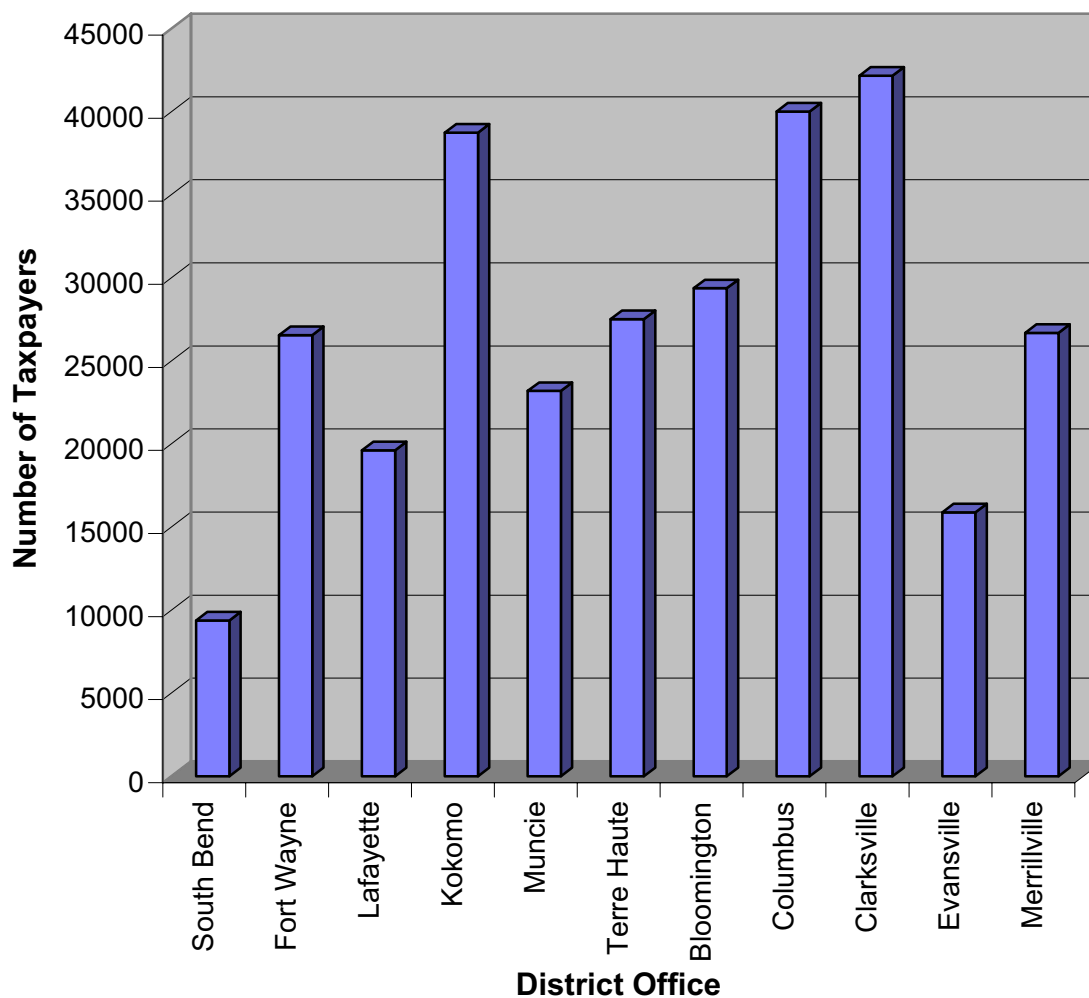


## Exhibit A

### Taxpayer Assistance Report - Fiscal Year 2004 Audit Division District Offices

	South Bend	Fort Wayne	Lafayette	Kokomo	Muncie	Terre Haute	Bloomington	Columbus	Clarksville	Evansville	Merrillville	Totals
Walk-in Assistance	4,788	11,757	9,919	19,841	8,233	9,214	11,931	21,528	23,468	9,817	10,774	141,270
Telephone Assistance	4,587	14,792	9,703	18,906	14,962	18,303	17,445	18,488	18,695	6,065	15,922	157,868
Totals	9,375	26,549	19,622	38,747	23,195	27,517	29,376	40,016	42,163	15,882	26,696	299,138
Collected/Assessed	\$2,222,790	\$3,710,056	\$2,930,492	\$8,069,117	\$4,300,358	\$5,803,168	\$8,546,857	\$4,605,106	\$5,656,589	\$4,370,179	\$2,865,904	\$53,080,616

### TAXPAYERS SERVED IN DISTRICT OFFICES



## Exhibit B

### Field Auditors Taxpayer Assistance/Special Projects

	Total Hours
South Bend, Fort Wayne, Merrillville	5,218
Lafayette, Kokomo, Muncie	2,631
Indianapolis*	1
Terre Haute, Bloomington, Columbus, Clarksville and Evansville	3,396
Out of State	0
Special Tax Auditors	1,338
Total	<u>12,584</u>

\*Represents special project only. Taxpayer assistance provided by Taxpayer Services Division.

This field auditor information was gathered using data from regional reports indicating hours charged to Administrative Special Projects and Administrative Taxpayer Services.

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## Standard Industrial Codes

The Standard Industrial codes (SIC) used in the Audit Division reports and exhibits are based on the North American Industry Classification System (NAICS). Refer to the following text to explain the industry classification numbering system.

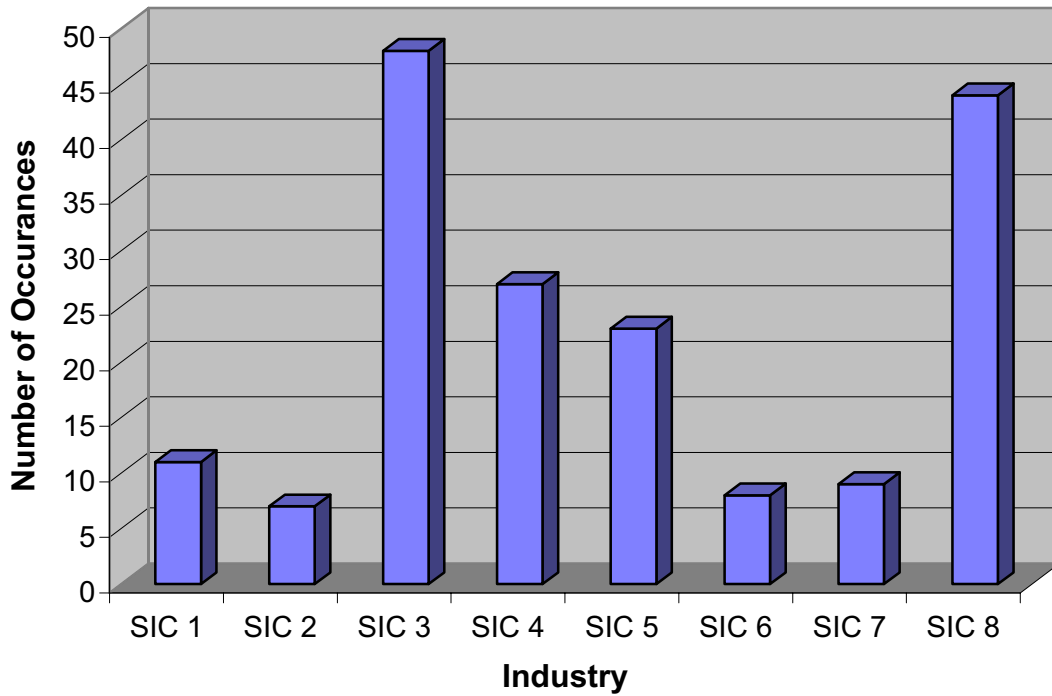
Class	Explanation
1	Agricultural; Forestry
2	Mining; Oil and Gas Extraction; Construction
3	Manufacturing
4	Wholesale; Retail; Transportation
5	Information; Publishing; Telecommunications; Finance; Rental Insurance; Real Estate; Leasing; Professional Services
6	Education; Health Services
7	Arts; Entertainment; Recreation; Food Service; Accommodations
8	Repair; Personal Services; Other Services
9	Public Administration

**Exhibit C**  
**Dollars Assessed in 45 IAC Citations by Industrial Code**  
**Gross Income Tax Audits**

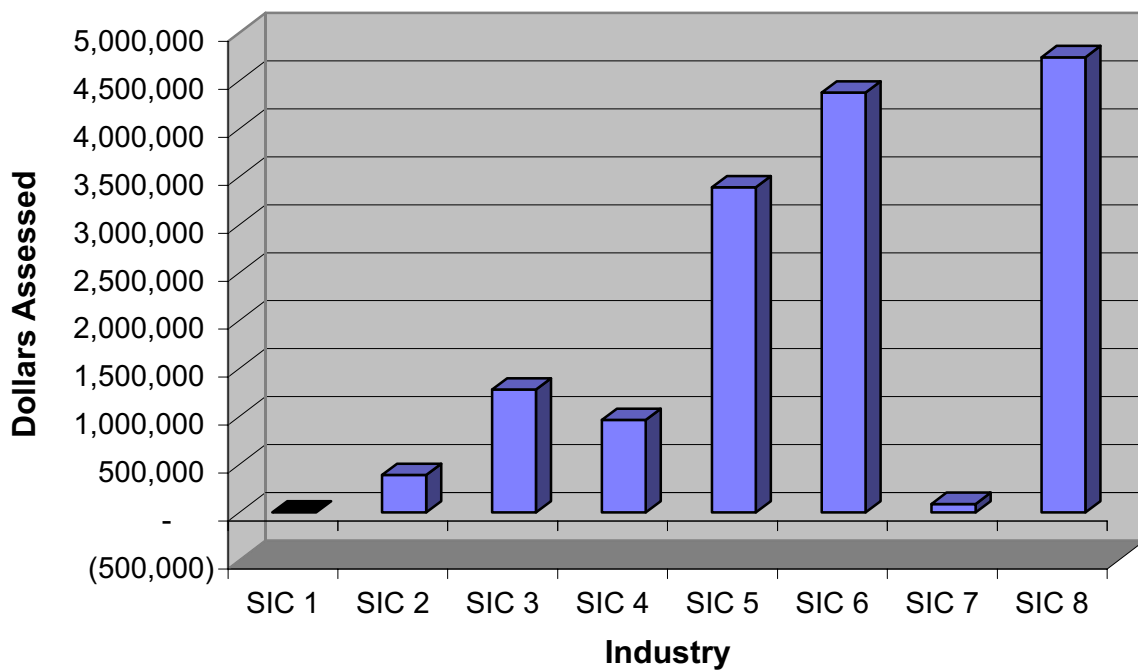
Sum of Amount	SIC*								
Citation	1	2	3	4	5	6	7	8	Grand Total
45 IAC 1.1-1-1				(5,297)					(5,297)
45 IAC 1.1-1-10			24,824		678	620		13,532	39,654
45 IAC 1.1-1-11					54,352				54,352
45 IAC 1.1-1-12								45,199	45,199
45 IAC 1.1-1-14			(8,430)						(8,430)
45 IAC 1.1-1-18			(118,589)						(118,589)
45 IAC 1.1-1-2			7,787						7,787
45 IAC 1.1-1-20				(159,245)				13,355	(145,890)
45 IAC 1.1-1-21					189,083			9,742	198,825
45 IAC 1.1-1-23			50,618						50,618
45 IAC 1.1-1-24		4,095	3,515		28,816			98,380	134,806
45 IAC 1.1-1-3				14,512				4,589	19,101
45 IAC 1.1-1-4				15,693					15,693
45 IAC 1.1-1-49			347,465						347,465
45 IAC 1.1-1-5	900		3,319		1,252				5,471
45 IAC 1.1-1-66							9,060		9,060
45 IAC 1.1-1-9				6,903					6,903
45 IAC 1.1-2-1	696		(128,863)				66,885	4,126	(57,156)
45 IAC 1.1-2-10	1,140			8,028	57,600				66,768
45 IAC 1.1-2-13			212,177						212,177
45 IAC 1.1-2-19	90								90
45 IAC 1.1-2-2	(2,905)	(789)	(8,133)	128,513	8,555	(35)	(451)	195,111	319,866
45 IAC 1.1-2-4		313,667	57,171	99,882	310,920	(5)	12,330	256,255	1,050,220
45 IAC 1.1-2-47			363						363
45 IAC 1.1-2-5			192,662	851,569	535,940	4,376,270		252,836	6,209,277
45 IAC 1.1-2-8			16,835					2,960,400	2,977,235
45 IAC 1.1-3-11			(42,531)						(42,531)
45 IAC 1.1-3-13								318,833	318,833
45 IAC 1.1-3-3			670,999	3,143	(48,530)			(83,879)	541,733
45 IAC 1.1-3-6						695			695
45 IAC 1.1-3-8					17,716			663	18,379
45 IAC 1.1-3-9						(140)	194		54
45 IAC 1.1-4-1	(20)							7,863	7,843
45 IAC 1.1-5-7								640	640
45 IAC 1.1-5-8		72,827			13,502				86,329
45 IAC 1.1-6-2	(93)				2,219,334			648,055	2,867,296
Grand Total	(192)	389,800	1,281,189	963,701	3,389,218	4,377,405	88,018	4,745,700	15,234,839

\*See Pg. 47 for detail of SIC categories.

**Gross Income Tax Violations by Industry Group**



**Gross Income Tax Dollars Assessed by Industry Group**



## Exhibit D

### Dollars Assessed in 45 IAC Citations by Industrial Code Sales and Use Tax Audits

Sum of Amount	SIC*								
Citation	1	2	3	4	5	6	7	8	Grand Total
45 IAC 2.2-10-2								28,321	28,321
45 IAC 2.2-1-1				28,798	40,065		2,158	1,782	72,803
45 IAC 2.2-1-10				10,157					10,157
45 IAC 2.2-2-1			2,765	12,221	37,036			4,160	56,182
45 IAC 2.2-2-2			11,425	47,591	90,096		79,665	(5,188)	223,589
45 IAC 2.2-2-26								21	21
45 IAC 2.2-2-3				145				5,665	5,810
45 IAC 2.2-2-30								272	272
45 IAC 2.2-3-1				6,818	226,656				233,474
45 IAC 2.2-3-10	(93)	(165)						(2,953)	(3,211)
45 IAC 2.2-3-11		218			17,780		24,518		42,516
45 IAC 2.2-3-12	63,372	108,114		2,584	5,921	1,459		14,596	196,046
45 IAC 2.2-3-13	13	(154,766)	9,085	4,147	10,507		(12,359)	1,768	(141,605)
45 IAC 2.2-3-14					(2,198)		(258)		(2,456)
45 IAC 2.2-3-15	233	12,996	11,324	756	1,358		4,082	19,879	50,628
45 IAC 2.2-3-16			1,652	883	3,096		2,320		7,951
45 IAC 2.2-3-18			1,768	37,586	951			996	41,301
45 IAC 2.2-3-20	4,760	13,413	121,908	515,317	1,391,401	290	144,863	549,352	2,741,304
45 IAC 2.2-3-21								75,171	75,171
45 IAC 2.2-3-22								4,225	4,225
45 IAC 2.2-3-24		8,047					11,966		20,013
45 IAC 2.2-3-25		2,538							2,538
45 IAC 2.2-3-26							27		27
45 IAC 2.2-3-27		37	(2,547)		6,612		(15,431)	6,780	(4,549)
45 IAC 2.2-3-30				863					863
45 IAC 2.2-3-4	1,587	13,701	398,684	160,761	1,397,552	16,834	316,280	33,399	2,338,798
45 IAC 2.2-3-5		125		58,434	5,683		790		65,032
45 IAC 2.2-3-7	334								334
45 IAC 2.2-3-8	(312)	523	30	1,348	3,145		25,867	13,755	44,356
45 IAC 2.2-3-9	40,266	3,619	17,818	161	551	4,991	2,937	69,237	139,580
45 IAC 2.2-4-1	1,808	889	132,466	165,312	393,188		29,055	137,302	860,020
45 IAC 2.2-4-11			2,659				5,568	20	8,247
45 IAC 2.2-4-12								(61)	(61)
45 IAC 2.2-4-13		(11,243)	58,815	(717)	1,235		(3,741)	(314,784)	(270,435)
45 IAC 2.2-4-14								1,736,360	1,736,360
45 IAC 2.2-4-2		(20)	(3,483)	324	40,155	143	(48,552)	28,747	17,314
45 IAC 2.2-4-20				41,535	42				41,577
45 IAC 2.2-4-21		17,741	28,596	92	4,466			1,702	52,597
45 IAC 2.2-4-22	16,133	158,296	1,466		1,006			128,496	305,397
45 IAC 2.2-4-23								(18)	(18)
45 IAC 2.2-4-25		26,634		1,188				(12,346)	15,476
45 IAC 2.2-4-26	9,114	77,717	301		520		7,230	3,675	98,557
45 IAC 2.2-4-27	4,845	45,877	45,794	37,613	58,066		9,007	92,764	293,966
45 IAC 2.2-4-28								59	59
45 IAC 2.2-4-3		(10)		558			1,776		2,324
45 IAC 2.2-4-30					372				372
45 IAC 2.2-4-34		2,205							2,205
45 IAC 2.2-4-4								20,542	20,542
45 IAC 2.2-4-8			23	107	8,311	1,456	117,118	31,915	158,930
45 IAC 2.2-4-9		22	56		319			304	701
45 IAC 2.2-5-1	1,580							(44,822)	(43,242)
45 IAC 2.2-5-10		(920)	95,713					6,421	101,214
45 IAC 2.2-5-11			264						264
45 IAC 2.2-5-12		(1,207)	99,704	20,124	412		15,169	(24,483)	109,719
45 IAC 2.2-5-13				709					709
45 IAC 2.2-5-14			6,025	11,803	(17)		(96,437)	2,908	(75,718)
45 IAC 2.2-5-15	(111)	(6,237)	(1,454)	(4,736)	(7,389)	(3,857)	(6,749)	45,953	15,420

\*See Pg. 47 for detail of SIC categories.

(Continued on Pg. 51)

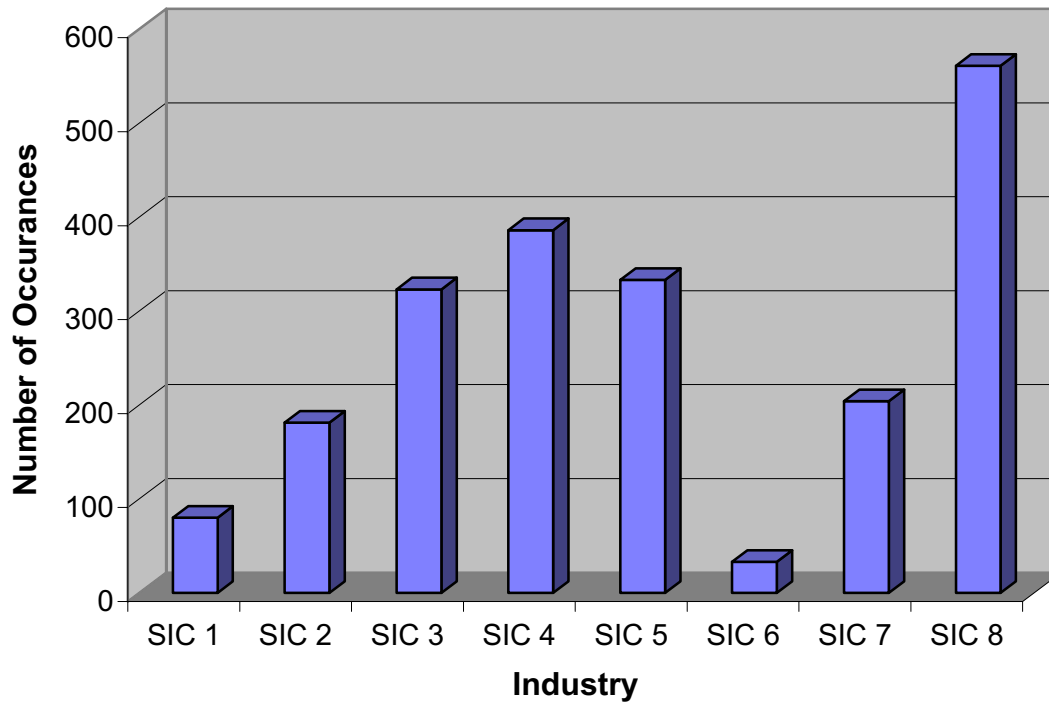
**Exhibit D**  
**Dollars Assessed in 45 IAC Citations by Industrial Code**  
**Sales and Use Tax Audits**  
(Continued from Pg. 50)

45 IAC 2.2-5-16			(27,304)	(167)			(26,187)	(45,747)	(99,405)
45 IAC 2.2-5-17		3,561							3,561
45 IAC 2.2-5-20				1,928				7,402	9,330
45 IAC 2.2-5-25					28				28
45 IAC 2.2-5-26	965	875	23,605	2,260	7,339	59	5,435	1,165,813	1,206,351
45 IAC 2.2-5-27								322	322
45 IAC 2.2-5-28						4,235		(27,657)	(23,422)
45 IAC 2.2-5-3	2,059	307,893		555				10,711	321,218
45 IAC 2.2-5-36		11,459			2,078	5,713		140	19,390
45 IAC 2.2-5-38			(30)				(18,332)		(18,362)
45 IAC 2.2-5-39		(1)					(53,946)		(53,947)
45 IAC 2.2-5-4	10,499	202,881		754	292		725	5,595	220,746
45 IAC 2.2-5-40		20	569	8,353	55			92	9,089
45 IAC 2.2-5-42		178	1,759	175	210				2,322
45 IAC 2.2-5-43				1,146	(2,834)				(1,688)
45 IAC 2.2-5-44					3,817				3,817
45 IAC 2.2-5-45			1,071	33	503		3,210		4,817
45 IAC 2.2-5-5	10,924								10,924
45 IAC 2.2-5-53				(3,762)					(3,762)
45 IAC 2.2-5-54				574	883				1,457
45 IAC 2.2-5-55							1,006		1,006
45 IAC 2.2-5-57							483		483
45 IAC 2.2-5-6	306	85,605			25,867			2,745	114,523
45 IAC 2.2-5-61		139,669		(1,830)		(432)		7,725	145,132
45 IAC 2.2-5-62				290				4,135	4,425
45 IAC 2.2-5-63								(44,496)	(44,496)
45 IAC 2.2-5-65								1,560	1,560
45 IAC 2.2-5-7				2,577					2,577
45 IAC 2.2-5-8	8,779	25,521	930,618	433,052	6,777	4,146	3,990	1,163,714	2,576,597
45 IAC 2.2-5-9		104,811						261,953	366,764
45 IAC 2.2-6-1				215,600	100,101		88,463	16,119	420,283
45 IAC 2.2-6-12				181,392	7,053,626			488,462	7,723,480
45 IAC 2.2-6-13								217	217
45 IAC 2.2-6-14		(15)		(78)	33,497		(1,916)	1,332	32,820
45 IAC 2.2-6-6					10,609				10,609
45 IAC 2.2-6-8	25,153	30,625	434	946,869	245,694	5,159	70,902	89,209	1,414,045
45 IAC 2.2-7-2					102,921				102,921
45 IAC 2.2-7-3	2,553			1,332					3,885
45 IAC 2.2-7-5	24,611							56,586	81,197
45 IAC 2.2-7-7								(1,670)	(1,670)
45 IAC 2.2-8-1								(200)	(200)
45 IAC 2.2-8-12	(1,133)	161,671	36,031	16,334	53,878		59,541	11,479	337,801
45 IAC 2.2-8-15								32,467	32,467
45 IAC 2.2-8-16								(1,362,917)	(1,362,917)
45 IAC 2.2-8-17								21,061	21,061
45 IAC 2.2-8-2								25	25
Grand Total	228,245	1,392,897	2,007,610	2,969,869	11,382,239	40,196	750,243	4,528,069	23,299,368

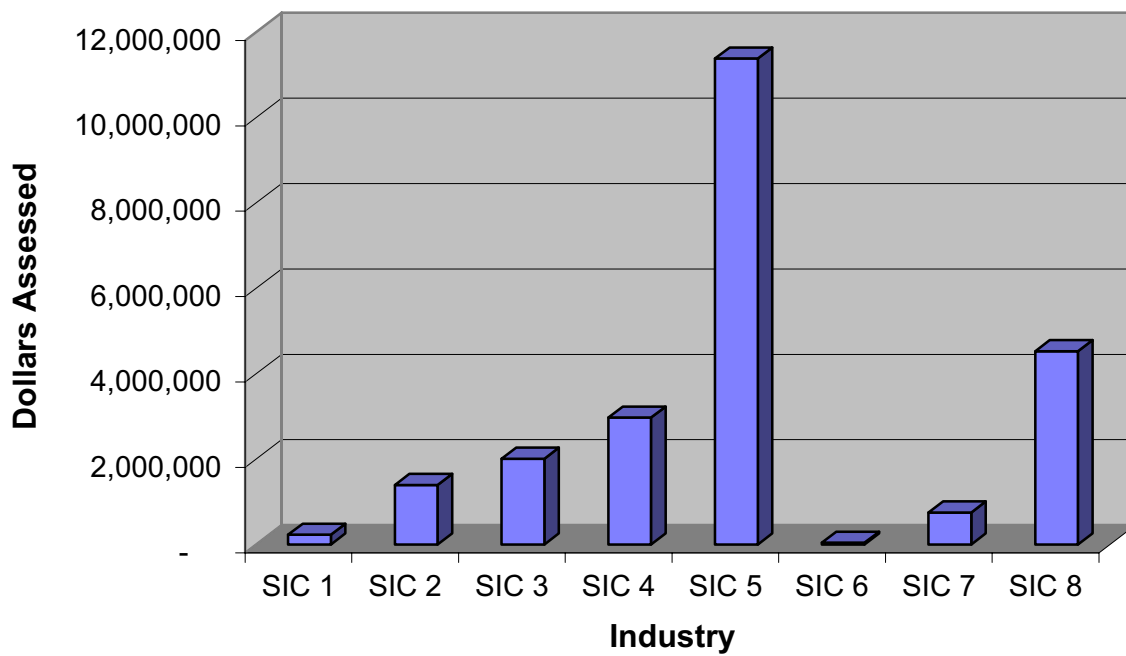
\*See Pg. 47 for detail of SIC categories.



**Sales and Use Tax Violations by Industry Group**



**Sales and Use Tax Dollars by Industry Group**

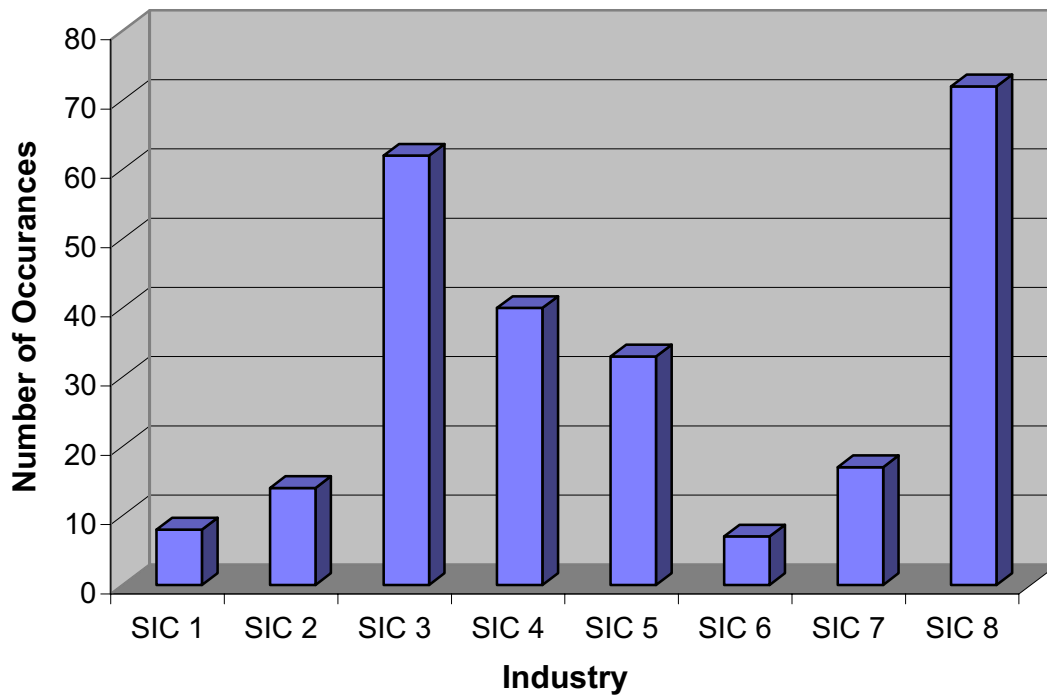


**Exhibit E**  
**Dollars Assessed in 45 IAC Citations by Industrial Code**  
**Adjusted Gross Income Tax**

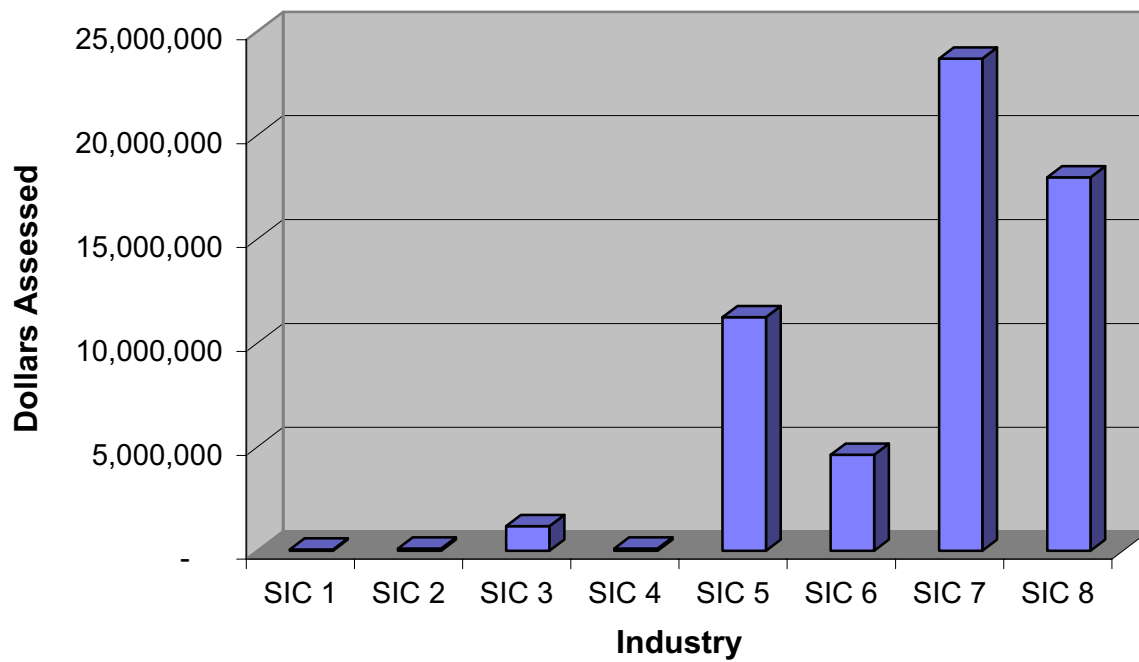
Sum of Amount	SIC*								
Citation	1	2	3	4	5	6	7	8	Grand Total
45 IAC 3.1-1-1	52,930	13,501		74,769	3,647	1,814	4,798	42,376	193,835
45 IAC 3.1-1-10			1,004						1,004
45 IAC 3.1-1-106						819	1,037,454	5,018,159	6,056,432
45 IAC 3.1-1-107								2,833,214	2,833,214
45 IAC 3.1-1-109					1,284,656		2,595,472	567	3,880,695
45 IAC 3.1-1-11								9,460,161	9,460,161
45 IAC 3.1-1-110								1,305	1,305
45 IAC 3.1-1-111			122,997					763,740	886,737
45 IAC 3.1-1-118					33,904				33,904
45 IAC 3.1-1-153			1,468,092		3,173,526				4,641,618
45 IAC 3.1-1-19			(353,576)						(353,576)
45 IAC 3.1-1-2				4,438	41,862		8,566	45,608	100,474
45 IAC 3.1-1-25								13,317	13,317
45 IAC 3.1-1-29			114,000			5,134,363			5,248,363
45 IAC 3.1-1-3								362	362
45 IAC 3.1-1-37			55,337					3,646	58,983
45 IAC 3.1-1-38			(274,873)						(274,873)
45 IAC 3.1-1-39			(4,213)	46,344					42,131
45 IAC 3.1-1-4								13,713	13,713
45 IAC 3.1-1-40			(182)		(10,000)				(10,182)
45 IAC 3.1-1-41			117					(19,590)	(19,473)
45 IAC 3.1-1-45		8,414	258		1,148				9,820
45 IAC 3.1-1-46				(1,256)					(1,256)
45 IAC 3.1-1-47								(34,084)	(34,084)
45 IAC 3.1-1-48					292				292
45 IAC 3.1-1-49			(204)						(204)
45 IAC 3.1-1-5								2,259	2,259
45 IAC 3.1-1-50			4,000		7,961				11,961
45 IAC 3.1-1-51			(4,641)		(16,915)	(512,437)		(41,055)	(575,048)
45 IAC 3.1-1-52			4,242					(125)	4,117
45 IAC 3.1-1-53			59,918					5,714	65,632
45 IAC 3.1-1-55					180,469				180,469
45 IAC 3.1-1-56		1,200							1,200
45 IAC 3.1-1-6				(1,511)			1,957,334		1,955,823
45 IAC 3.1-1-62					(514,395)				(514,395)
45 IAC 3.1-1-66				104			1,586	3,122	4,812
45 IAC 3.1-1-67								1,341	1,341
45 IAC 3.1-1-68				(2,170)					(2,170)
45 IAC 3.1-1-79		20	911						931
45 IAC 3.1-1-8	5,250	41,254	428,257	(79,725)	7,099,232	1,526	18,079,000	59,937	25,634,731
45 IAC 3.1-1-9	(3,900)	1,270	(776,027)	(4,168)	(48,818)	558		(285,143)	(1,116,228)
45 IAC 3.1-1-94			263,694	30,152				5,239	299,085
45 IAC 3.1-1-97		37,846	216	44,470	8,336		6,364	83,200	180,432
45 IAC 3.1-2-1			76,174					2,426	78,600
45 IAC 3.1-2-2					(244)				(244)
45 IAC 3.1-3-1	3,615	8,306			150				12,071
45 IAC 3.1-3-3				48					48
Grand Total	57,895	111,811	1,185,501	111,495	11,244,811	4,626,643	23,690,574	17,979,409	59,008,139

\*See Pg. 47 for detail of SIC categories.

**Adjusted Gross Income Tax Assessed by Industry Group**



**Adjusted Gross Income Tax Assessed by Industry Group**



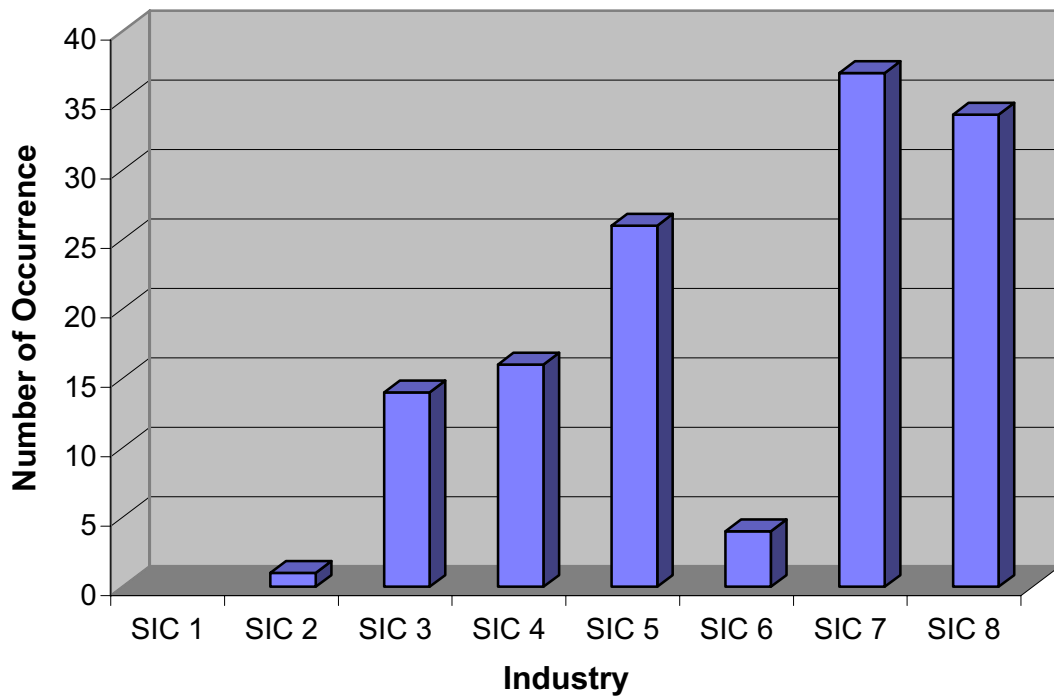
## Exhibit F

### Dollars Assessed for Misc. Code Violations by Industrial Code

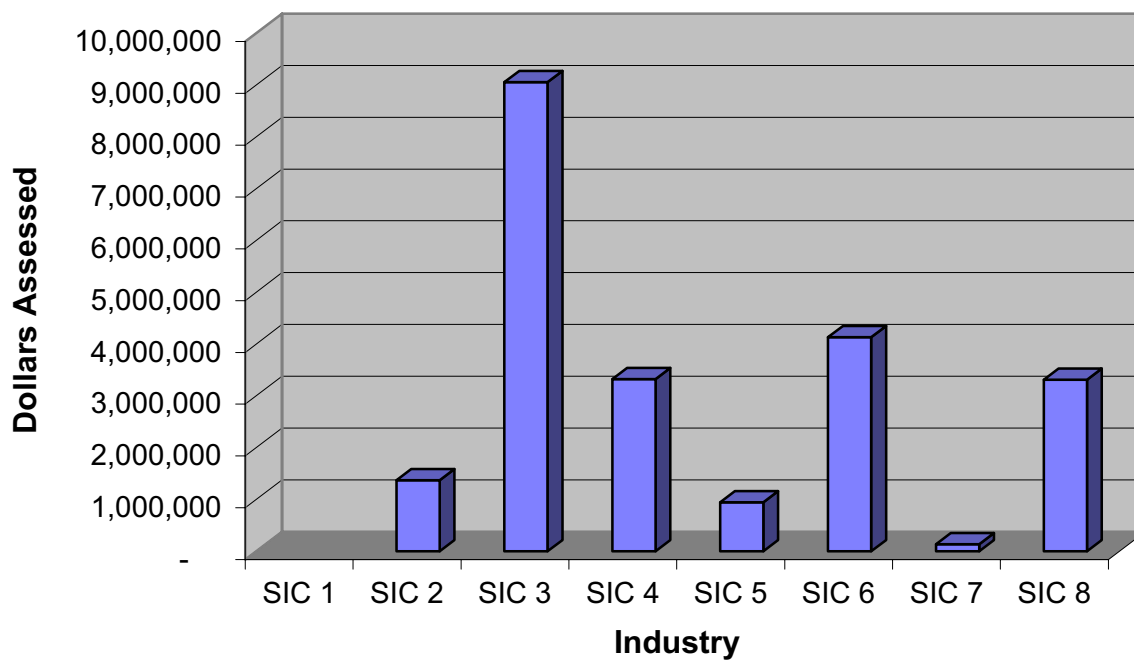
Sum of Amount	SIC*							
Citation	2	3	4	5	6	7	8	Grand Total
45 IAC 15-4-1				2,896				2,896
45 IAC 15-5-1							543	543
45 IAC 15-5-6			4				8,928	8,932
45 IAC 15-5-7		(2,710)		2,615				(95)
45 IAC 15-9-1				25,058			668,780	693,838
45 IAC 15-9-2			33,930	(2,321,206)			917,979	(1,369,297)
45 IAC 17-2-5				11,831				11,831
45 IAC 17-3-1				139,170	59,800		16,197	215,167
45 IAC 17-3-2					(117,600)			(117,600)
45 IAC 17-3-5					4,191,653		2,265,604	6,457,257
45 IAC 17-3-6				547,231				547,231
45 IAC 17-3-9							(42,789)	(42,789)
45 IAC 17-5-1							(446,672)	(446,672)
45 IAC 18-2-3						11,300	1,725	13,025
IC 6-2.1-2-3				2,784				2,784
IC 13-20-13-7			839				92	931
IC 4-32-9-3							9,023	9,023
IC 6-2.5-2-1			3,173					3,173
IC 6-2.5-4-1			(15,427)			(15,039)		(30,466)
IC 6-2.5-4-6				1,006				1,006
IC 6-2.5-5-35						(3,569)	(41)	(3,610)
IC 6-2.5-7-5		30,438		(164)				30,274
IC 6-3.1-21-5							408	408
IC 6-3.1-4-2			17,000					17,000
IC 6-3.1-3.5		5,000		3,870			(1,039)	7,831
IC 6-3-14		81,033						81,033
IC 6-3-2-1			1,815					1,815
IC 6-3-2-12		84,000					(27,457)	56,543
IC 6-3-2-2	1,374,497	8,707,821	3,270,030	2,524,778				15,877,126
IC 6-3-2-6			200					200
IC 6-3-4-12				(3,983)				(3,983)
IC 6-3-4-13				(834)				(834)
IC 6-3-4-14		(404)						(404)
IC 6-3-4-8						35,284		35,284
IC 6-5.5-1-2				327				327
IC 6-5.5-2.1				8,256				8,256
IC 6-6-9.7-8				1,254				1,254
IC 6-8.1-10-3			290					290
IC 6-8.1-4-2		35,999	(61)			(69,337)	3,792	(29,607)
IC 6-8.1-5-1		115,743	12,058			58,214		186,015
IC 6-8.1-5-2		(1,026)					(63,454)	(64,480)
IC 6-8.1-9							1,298	1,298
IC 6-8.1-9-1						29,449		29,449
IC 6-9-20-5						(3,216)		(3,216)
IC 6-9-23-5						808		808
IC 6-9-23-6						6,564		6,564
IC 6-9-8-2						87,389		87,389
Grand Total	1,374,497	9,055,894	3,323,851	944,889	4,133,853	137,847	3,312,917	22,283,748

\*See Pg. 47 for detail of SIC categories.

**Miscellaneous Code Violations by Industry Group**



**Miscellaneous Tax Dollars Assessed by Industry Group**



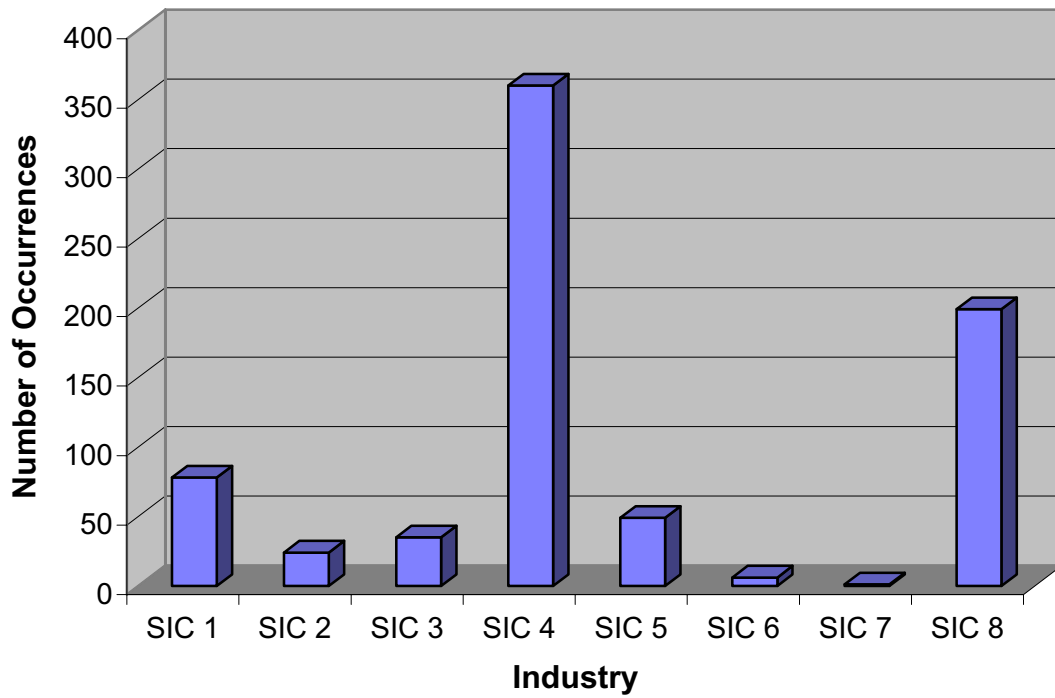
**Exhibit G**  
Dollars Assessed in Code Article Citations by Industrial Code  
Special Tax Audits

Sum of Amount	SIC*								
Citation	1	2	3	4	5	6	7	8	Grand Total
A550				7,070					7,070
IC 16-44-2-18								100	100
IC 6-6-1.1-201								225	225
IC 6-6-1.1-502				(6,467)					(6,467)
IC 6-6-2.5-28								1,183	1,183
IC 6-6-4.1.6					(54)				(54)
IC 6-6-4.1-4	(11,991)	2,264	2,740	28,310	465	(236)		9,833	31,385
IC 6-6-4.1-4.5				2,815					2,815
IC 6-6-4.1-6	8,318	(652)	(193)	(1,063)	89	544		(1,160)	5,883
IC 6-6-4.1-9	1,178			799					1,977
IC 6-6-5.5-8	2,871	8,687	166	8,320	72	438		4,446	25,000
IC 6-7-1-1								287	287
IC 6-7-1-19	91,266				17,920			140,845	250,031
IC 6-7-2-7	11,852							(168)	11,684
IC 7.1-4-2-1					801				801
IC 7.1-4-3-1					21,935				21,935
IC 8-1.21-20.7								35	35
IC 8-2.1-20.7				90				60	150
IC 8-2.1-20-7				1,055				975	2,030
IC 8-2.1-22-39				425				200	625
IRP Article II-204			40	3,133				72	3,245
IRP Article XV-1502	6,500	103,494	721	8,400		4,978		10,594	134,687
IRP Article XVII-1700	208	(25)	(8)	5,721	157			(16,061)	(10,008)
R1000	(8,684)	(16,015)	(3,463)	39,701	283	(16)	(2,937)	(66,255)	(57,386)
R1200				876					876
R800	21,542	38,264	4,124	218,277	1,486	23		203,855	487,571
R970				1,694					1,694
Grand Total	123,060	136,017	4,127	319,156	43,154	5,731	(2,937)	289,066	917,374

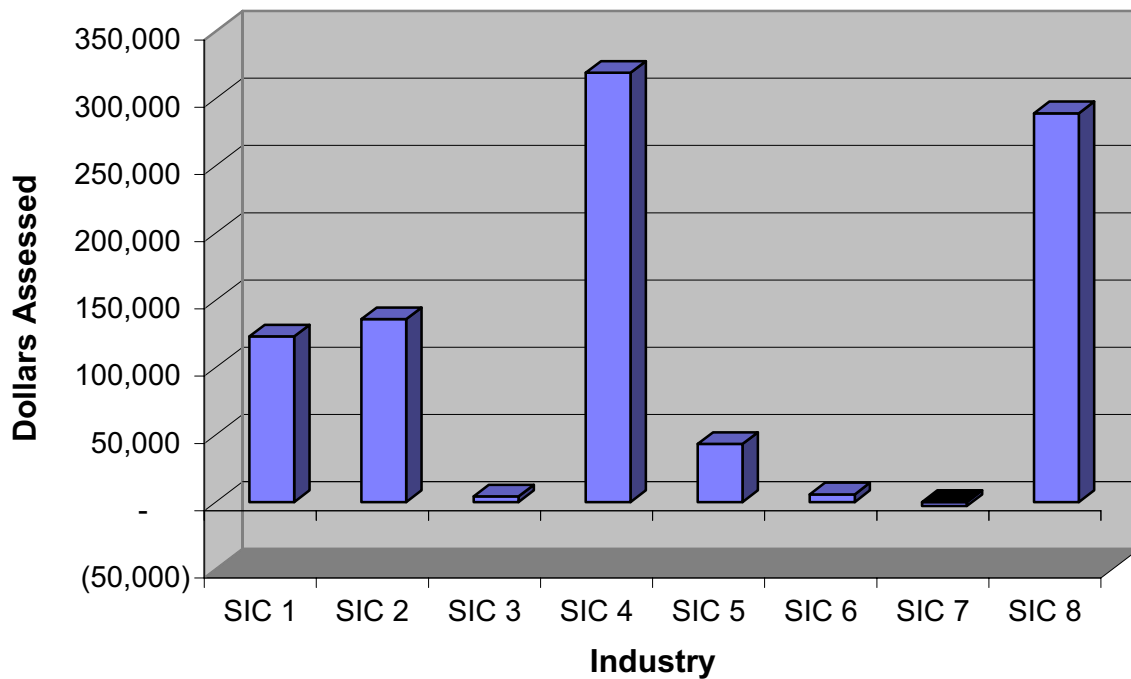
\*See Pg. 47 for detail of SIC categories.

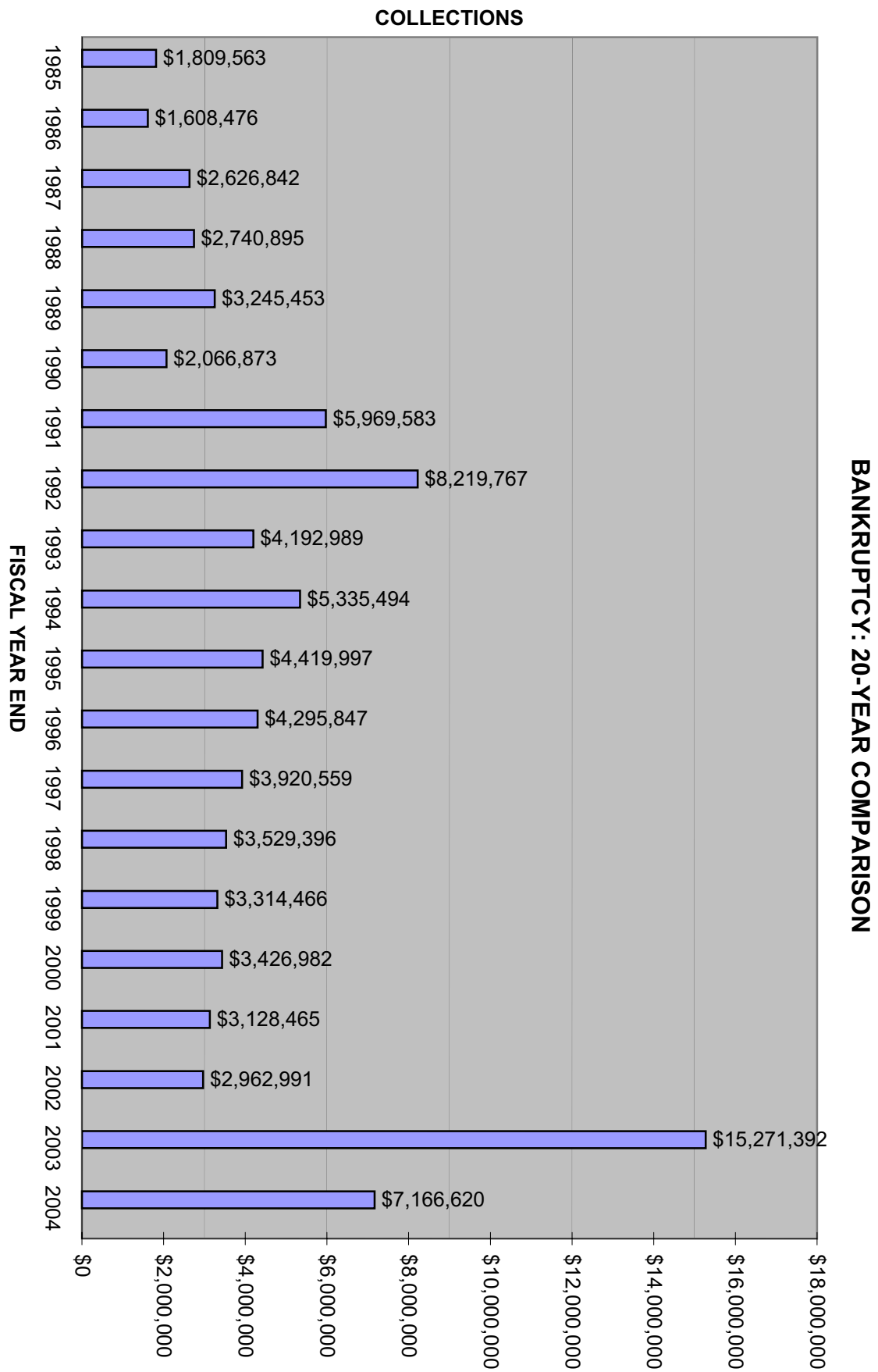


**Special Tax Violations by Industry Group**

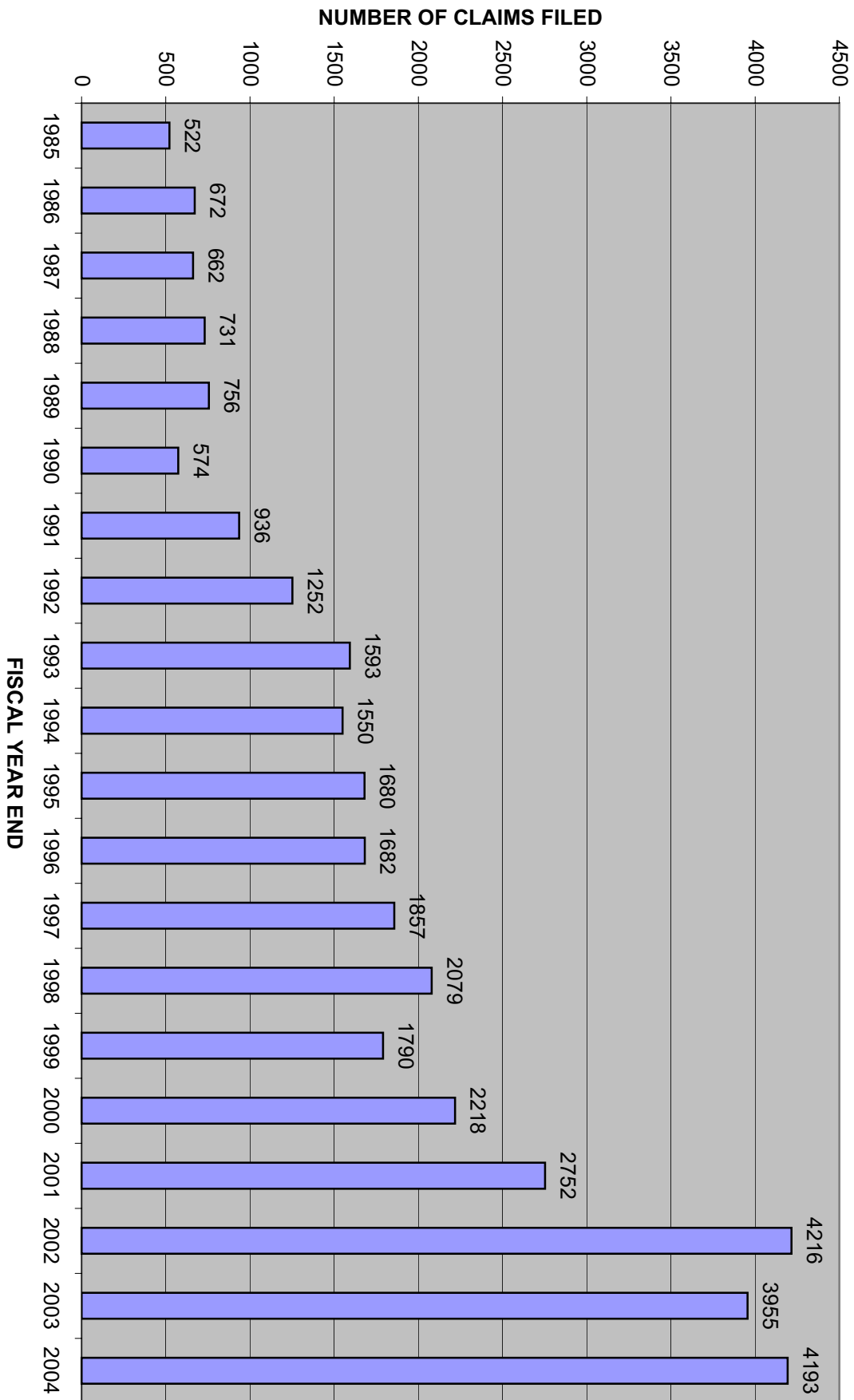


**Special Tax Dollars Assessed by Industry Group**

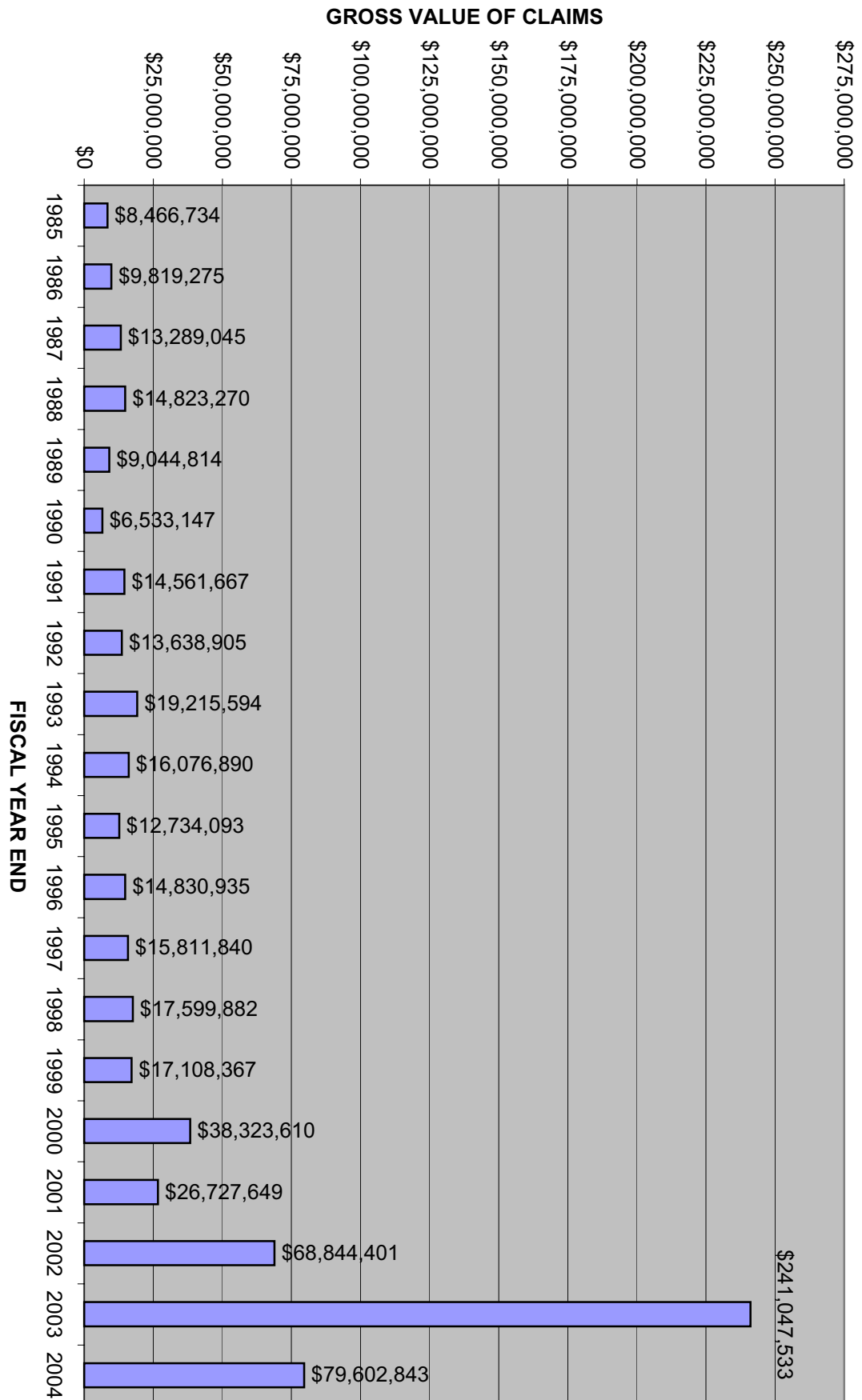




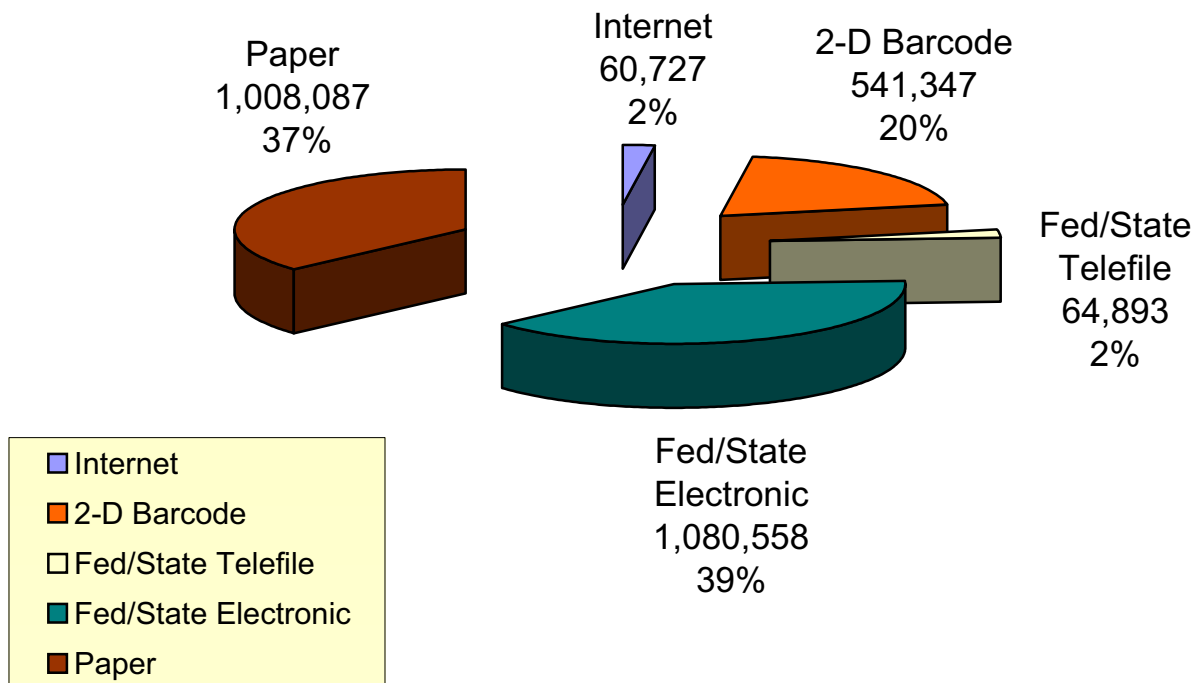
# BANKRUPTCY: 20-YEAR COMPARISON



# BANKRUPTCY: 20-YEAR COMPARISON



# 2003 Indiana Individual Income Tax Breakdown by Filing Method



2003 Individual Income Tax Returns by Type, Filing Numbers and Percentages		
Internet	60,727	2%
2-D Barcode	541,347	20%
Fed/State Telefile	64,893	2%
Fed/State Electronic	1,080,558	39%
Paper	1,008,087	37%
Grand Totals	2,755,612	100%